

EXHIBIT 33



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Transcript of William C. Kelly

Date: August 20, 2019

Case: Russell, et al. -v- Educational Commission for Foreign Medical Graduates

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Conducted on August 20, 2019

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1		3	
Volume I Pages 1 224		I N D E X Direct Cross	
IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA		Testimony of:	
Case No. 2:18 cv 05629 JW		WILLIAM KELLY	
Hon. Joshua D. Wolson		by Mr. Vettori 6	
		by Mr. Ceryes 179	
		E X H I B I T S	
		No. Description For I.D.	
MONIQUE RUSSELL, JASMINE RIGGINS		Exhibit 1 Bates ECFMG RUSS 0000982 1032 15	
ELSA M. POWELL AND DESIRE EVANS,		Exhibit 2 Bates ECFMG RUSS 0000155 158 27	
Plaintiffs,		Exhibit 3 Bates ECFMG RUSS 0000105 31	
vs.		Exhibit 4 Bates ECFMG RUSS 0000407 409 35	
EDUCATIONAL COMMISSION FOR		Exhibit 5 Bates ECFMG RUSS 0003572 3573 40	
FOREIGN MEDICAL GRADUATES		Exhibit 6 Bates ECFMG RUSS 0000433 437 41	
Defendant.		Exhibit 7 Bates ECFMG RUSS 0000167 45	
		Exhibit 8 Bates ECFMG RUSS 0000074 167 47	
		Exhibit 9 Bates ECFMG RUSS 0000440 54	
DEPOSITION OF WILLIAM C. KELLY		Exhibit 10 Bates ECFMG RUSS 0003465 3468 55	
Tuesday, August 20, 2019 at 9:40 a.m.		Exhibit 11 Bates ECFMG RUSS 0003463 3468 58	
Law Offices of Morgan, Lewis & Bockius, LLP		Exhibit 12 Bates ECFMG RUSS 0000446 447 60	
One Federal Street		Exhibit 13 Bates ECFMG RUSS 0000202 61	
Boston, Massachusetts 02110 176		Exhibit 14 Bates ECFMG RUSS 0000268 269 63	
		Exhibit 15 Bates ECFMG RUSS 0000116 119 65	
		Exhibit 16 Bates ECFMG RUSS 0000267 67	
Jennifer A. Doherty, CSR		Exhibit 17 Bates ECFMG RUSS 0003471 3472 68	
Certified Shorthand Reporter		Exhibit 18 Bates ECFMG RUSS 0004007 4014 70	
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APPEARANCES:		E X H I B I T S	
LAW OFFICE OF PETER G. ANGELOS, P.C. BY: Paul M. Vettori, Esq. One Charles Center 100 North Charles Street Baltimore, Maryland 21201 410 649 2000 pvettori@lawpga.com For the Plaintiffs.		No. Description For I.D.	
JANET, JANET & SUGGS, LLC BY: Patrick A. Thronson, Esq. 4 Reservoir Circle, Suite 200 Baltimore, Maryland 21208 410 653 3200 For the unnamed class members.		Exhibit 19 Bates ECFMG 000464-462 78	
SCHORCHOR FEDERICO AND STATON, P.C. BY: Brent Ceryes, Esq. 1211 St. Paul Street Baltimore, Maryland, 21202 310 234 1000 bceryes@sfspa.com For the Plaintiffs.		Exhibit 20 Bates ECFMG RUSS 0000348-351 81	
MORGAN LEWIS BY: Elisa P. McEnroe, Esq. and Matthew Klayman, Esq. 1701 Market Street Philadelphia, Pennsylvania 19103 215 963 5917 elisa.mcenroe@morganlewis.com For the Defendant.		Exhibit 21 Bates ECFMG RUSS 0000021-22 86	
		Exhibit 22 Bates ECFMG RUSS 0000023 86	
		Exhibit 23 Bates ECFMG RUSS 0000703-706 87	
		Exhibit 24 Bates ECFMG RUSS 0000643 90	
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<p style="text-align: right;">5</p> <p>1 EXHIBITS</p> <p>2</p> <p>3 No. Description For I.D.</p> <p>4 Exhibit 42 Bates ECFMG RUSS 0000544 127</p> <p>5 Exhibit 43 Bates ECFMG RUSS 0000352-392 132</p> <p>6 Exhibit 44 Bates ECFMG RUSS 0003742 134</p> <p>7 Exhibit 45 Bates ECFMG RUSS 000671 137</p> <p>8 Exhibit 46 Bates ECFMG RUSS 0000554 139</p> <p>9 Exhibit 47 Bates ECFMG RUSS 0003905 140</p> <p>10 Exhibit 48 Bates ECFMG RUSS 0004160 145</p> <p>11 Exhibit 49 Bates ECFMG RUSS 0000262-271 159</p> <p>12 Exhibit 50 Bates ECFMG RUSS 0003899 161</p> <p>13 Exhibit 51 Bates ECFMG RUSS 0000647-652 164</p> <p>14 Exhibit 52 Bates ECFMG RUSS 0000569 168</p> <p>15 Exhibit 53 Bates ECFMG RUSS 0000594-596 175</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">7</p> <p>1 tell me.</p> <p>2 A. I will.</p> <p>3 Q. Because if you answer the question, I'm</p> <p>4 going to assume you understood it. Fair enough?</p> <p>5 A. Fair enough.</p> <p>6 Q. Can we have, for the record, your full</p> <p>7 name and address?</p> <p>8 A. My name is William Kelly, K-E-L-L-Y. My</p> <p>9 home address is 47 Powerhouse, P-O-W-E-R-H-O-U-S-E,</p> <p>10 Hill, H-I-L-L, Lane. That's in Rockport, Maine</p> <p>11 04856.</p> <p>12 Q. So you at one time worked for ECFMG, the</p> <p>13 Educational Commission for Foreign Medical</p> <p>14 Graduates?</p> <p>15 A. Yes.</p> <p>16 Q. And when did you leave that company's</p> <p>17 employment?</p> <p>18 A. I retired in May 2015.</p> <p>19 Q. So when you left ECFMG, you didn't take</p> <p>20 employment elsewhere?</p> <p>21 A. When I left ECFMG, I worked full-time. I</p> <p>22 worked as a consultant for them for one year</p> <p>23 part-time.</p> <p>24 Q. What years would that be?</p> <p>25 A. That would be May 2015 until I think it</p>
<p style="text-align: right;">6</p> <p>1 PROCEEDINGS</p> <p>2 WILLIAM KELLY, having been</p> <p>3 satisfactorily identified by the Notary Public was</p> <p>4 duly sworn and testified as follows:</p> <p>5 DIRECT EXAMINATION</p> <p>6 BY MR. VETTORI:</p> <p>7 Q. Good morning, Mr. Kelly.</p> <p>8 A. Good morning.</p> <p>9 Q. Again, thank you for appearing. My name</p> <p>10 is Paul Vettori. As I told you before, I represent</p> <p>11 two of the named plaintiffs in this case and I'm</p> <p>12 going to ask you a series of questions about</p> <p>13 information we need to learn about the case. Is</p> <p>14 that fair?</p> <p>15 A. Yes.</p> <p>16 Q. So have you ever had your deposition taken</p> <p>17 before?</p> <p>18 A. Yes.</p> <p>19 Q. Multiple times, two times, how many</p> <p>20 times?</p> <p>21 A. Multiple times.</p> <p>22 Q. So I don't have to go through a lot of</p> <p>23 rules with you. The only rule I have is I'll try</p> <p>24 not to talk over you, you try not to talk over me.</p> <p>25 If you don't understand a question I ask you, please</p>	<p style="text-align: right;">8</p> <p>1 was June 2016.</p> <p>2 Q. Okay. But since June 2016 you've been</p> <p>3 completely retired?</p> <p>4 A. No. I do contracting work with the State</p> <p>5 Department, their International Visitor Leadership</p> <p>6 Program. I'm a liaison officer.</p> <p>7 Q. How much of your time does that take?</p> <p>8 A. It varies from year to year and this year</p> <p>9 it will be a total of maybe ten weeks.</p> <p>10 Q. What's your educational background?</p> <p>11 A. My undergraduate, I have a Bachelor of</p> <p>12 Arts from LaSalle University in Philadelphia and</p> <p>13 graduate school I have a Master of Science from the</p> <p>14 University of Pennsylvania.</p> <p>15 Q. Did you work in Pennsylvania?</p> <p>16 A. Yes.</p> <p>17 Q. When you graduated from college, did you</p> <p>18 go immediately into your master's program or did you</p> <p>19 work first?</p> <p>20 A. I worked first.</p> <p>21 Q. For how long?</p> <p>22 A. About twenty years.</p> <p>23 Q. So who did you work for in that twenty</p> <p>24 year period?</p> <p>25 A. From when I graduated from college?</p>

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3 (9 to 12)

9	
1 Q. Yes, sir.	1 John Charles or John Noka Shami Akoda. I'm not
2 A. I first worked for an insurance company,	2 pronouncing it correctly.
3 Liberty Mutual Insurance Company. And then I worked	3 A. Akoda, yes.
4 for ECFMG.	4 Q. And did you review any documents with
5 Q. When did you start with ECFMG?	5 respect to an individual by the name of Charles
6 A. October 1977.	6 Oluwafemi Igberase?
7 Q. Is that thirty-eight years you were with	7 A. Yes.
8 the company?	8 Q. Did you review any document relating to a
9 A. Almost.	9 person by the name of Igberase Oluwafemi Charles?
10 Q. Congratulations.	10 A. That could be one of the names.
11 A. Thank you.	11 Q. Is there an individual with the last name
12 Q. And congratulations on your	12 of Oluwafemi sound like someone whom you looked at
13 semi-retirement.	13 documents?
14 A. Okay.	14 A. That name was in the documents.
15 Q. I need to ask you, what did you do to	15 Q. And about how many hours did you spend
16 prepare for this deposition once you learned you	16 preparing for this deposition in either reviewing
17 were coming here for this deposition?	17 for documents or meeting with counsel?
18 A. On my own?	18 A. The four hours.
19 Q. Well, in any way. Did you do anything on	19 Q. Most of the events I'm going to ask you
20 your own? Did you talk with anybody? Did you	20 about, Mr. Kelly, relate to the period from
21 review any documents? I can ask those as separate	21 approximately 1992 through at least 2000 and perhaps
22 questions, but basically I will start with: What	22 some limited documents thereafter.
23 did you do to prepare for this deposition?	23 Do you have independent recollection of
24 MS. MCENROE: Objection to form.	24 those events?
25 A. Well, I met with counsel.	25 MS. MCENROE: Objection to form.
0	2
1 BY MR. VETTORI:	1 A. No, not really.
2 Q. And I'm not going to ask you what counsel	2 BY MR. VETTORI:
3 asked you or what you told them, but how many times	3 Q. So I'm going to ask you some general
4 did you meet with counsel?	4 questions before I ask specific questions about some
5 A. Once.	5 of the names I just mentioned. Can you explain to
6 Q. And did you review any documents in	6 us, at least in general terms, how the ECFMG
7 preparation for this deposition?	7 certification of foreign medical graduates process
8 A. Yes.	8 worked?
9 Q. What type of documents did you review?	9 MS. MCENROE: Objection to form.
10 MS. MCENROE: Objection to form.	10 Calls for a narrative.
11 A. What do you mean by what type?	11 BY MR. VETTORI:
12 BY MR. VETTORI:	12 Q. Do you understand my question?
13 Q. Well, I want to know what it is you	13 A. Yes. I can only speak at the time I
14 reviewed. Were there certain files that you asked	14 worked there.
15 for or were directed to?	15 Q. Fair enough. I don't want to speak over
16 MS. MCENROE: Objection to form.	16 you. I don't mean to interrupt you, but I'm only
17 A. Paper documents.	17 interested in an answer to that question based on
18 BY MR. VETTORI:	18 the time period that you were there. I don't want
19 Q. Okay. Of?	19 to know anything since you left.
20 MS. MCENROE: Objection to form.	20 A. Well, they -- so you're talking about the
21 BY MR. VETTORI:	21 ECFMG certification program?
22 Q. Of whom or relating to what? Akoda?	22 Q. Yes. Of --
23 A. ECFMG applicants, yes.	23 A. -- international --
24 Q. And is one of the -- did you review any	24 Q. I call them IMGs, international medical
25 documents relating to a gentleman by the name of	25 graduates.

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4 (13 to 16)

<p>3</p> <p>1 A. Could you repeat the question?</p> <p>2 Q. Could you explain how that certification</p> <p>3 process works or worked at the time you were</p> <p>4 employed at ECFMG?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 A. There was an evaluation and certification</p> <p>7 process where international medical graduates passed</p> <p>8 a series of examinations, documented their education</p> <p>9 and credentials and -- that were verified by</p> <p>10 ECFMG.</p> <p>11 Q. So fair enough. What is the first step in</p> <p>12 this process that ultimately leads to certification</p> <p>13 by ECFMG?</p> <p>14 MS. MCENROE: Objection to form.</p> <p>15 BY MR. VETTORI:</p> <p>16 Q. Do you understand my question?</p> <p>17 A. The first step related to ECFMG?</p> <p>18 Q. Yes, yes.</p> <p>19 A. My recollection is it would be an</p> <p>20 application to ECFMG.</p> <p>21 Q. So is that an application to take steps</p> <p>22 one and/or two of the USLME? Is that what that</p> <p>23 application is all about?</p> <p>24 A. Those were some of the exams. There were</p> <p>25 different exams over time, but those were some of</p>	<p>5</p> <p>1 me fast-forward. If that same applicant to whom a</p> <p>2 number had been assigned, when he filed his</p> <p>3 application or her application, ultimately became</p> <p>4 certified, would the certification number be the</p> <p>5 same as that identification number? Again, I'm</p> <p>6 talking about the '92, '93 period.</p> <p>7 A. Yes.</p> <p>8 MR. VETTORI: So can you mark</p> <p>9 Exhibit 1?</p> <p>10 (Exhibit No. 1 marked for</p> <p>11 identification.)</p> <p>12 BY MR. VETTORI:</p> <p>13 Q. So again, I'm not trying to mislead you.</p> <p>14 This is a 1996 booklet, not a 1992 or 1993 booklet.</p> <p>15 Okay?</p> <p>16 A. Okay.</p> <p>17 Q. But do you recognize the document that's</p> <p>18 been marked as Exhibit 1?</p> <p>19 A. Yes.</p> <p>20 Q. And is this the type -- is this document</p> <p>21 given to any applicant -- was this document given</p> <p>22 to any IMG applicant who applied to take any of the</p> <p>23 USLME exams in 1996?</p> <p>24 MS. MCENROE: Objection to form.</p> <p>25 A. I think they would have had to have it in</p>
<p>4</p> <p>1 the exams that were administered.</p> <p>2 Q. Was the English examination another one of</p> <p>3 those?</p> <p>4 A. There was an English test, yes.</p> <p>5 Q. So at the time you -- again, all of my</p> <p>6 questions are directed to the time period right now,</p> <p>7 between 1992 and the end of year 2000. Fair</p> <p>8 enough?</p> <p>9 A. Yes.</p> <p>10 Q. And if there is any question in your mind</p> <p>11 about the period I'm asking about, please tell me</p> <p>12 and I'll tell you again.</p> <p>13 So in or around 1992 when an applicant, an</p> <p>14 IMG applicant filled out a form to take one of the</p> <p>15 USLME exams, was it the practice of ECFMG to assign</p> <p>16 an identification number to that application?</p> <p>17 MS. MCENROE: Objection to form.</p> <p>18 A. First let me circle back. My recollection</p> <p>19 is in 1992 the USLME exams weren't given. It was a</p> <p>20 different exam. But they would submit an</p> <p>21 application and an identification number would be</p> <p>22 assigned to them.</p> <p>23 Q. Okay. So I know I haven't established yet</p> <p>24 what is required in order to get a certification,</p> <p>25 but for the purposes of my question right now, let</p>	<p>6</p> <p>1 order to apply. That was the sequence.</p> <p>2 BY MR. VETTORI:</p> <p>3 Q. Would you go about halfway through that?</p> <p>4 I think attached as part of that document is also</p> <p>5 the USMLE booklet.</p> <p>6 MS. MCENROE: Do you have a specific</p> <p>7 Bates number?</p> <p>8 MR. VETTORI: I'm looking for it.</p> <p>9 MS. MCENROE: Thank you.</p> <p>10 (Discussion off the record.)</p> <p>11 BY MR. VETTORI:</p> <p>12 Q. Do you want me to repeat the question?</p> <p>13 A. Yeah.</p> <p>14 Q. Is the 1996 USMLE bulletin of information</p> <p>15 part of the document that's marked as Exhibit 1?</p> <p>16 A. Yes. That appears to be so, yes.</p> <p>17 Q. And does this -- would this document be</p> <p>18 provided to people who want to apply to take the</p> <p>19 USLME exams in 1996?</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. As with the ECFMG information booklet, I</p> <p>22 think the applicant would have had to have this in</p> <p>23 order to apply.</p> <p>24 BY MR. VETTORI:</p> <p>25 Q. And if you'll back up to the end of the</p>

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5 (17 to 20)

<p style="text-align: right;">7</p> <p>1 ECFMG document, I guess it's page -- I'm sorry, it's</p> <p>2 at the end. Would you please go to -- it's not Bate</p> <p>3 stamped. Yeah, they are, sorry. I think it's</p> <p>4 001028. While --</p> <p>5 For the record, all of these documents to</p> <p>6 date will have Bates numbers on them provided by</p> <p>7 counsel for ECFMG. For the most part, I'm just</p> <p>8 going to use the actual number part as opposed to</p> <p>9 ECFMG underline Russ underline and the number.</p> <p>10 So is the page that I'm directing you to</p> <p>11 the first page of the application that's filled out</p> <p>12 by the IMG when they want to apply to take the</p> <p>13 examinations that are required in order to be</p> <p>14 certified by ECFMG?</p> <p>15 A. To the best of my recollection, yes.</p> <p>16 Q. Do you -- sitting here today, do you</p> <p>17 recall what the step one exams, the step two exams,</p> <p>18 the English exam, and the step three exams were in</p> <p>19 the period, say, from 1992 through 1996?</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. I have a good recollection, yes.</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. So is it accurate -- would it be correct</p> <p>24 for me to say step one is essentially basic science</p> <p>25 material? When I say, "is," "was" is the word I</p>	<p style="text-align: right;">9</p> <p>1 Q. And am I correct also that in that same</p> <p>2 time period in order -- I'm sorry, was -- in that</p> <p>3 time period were steps one and two and was the</p> <p>4 English exam administered by ECFMG?</p> <p>5 A. To the best of my recollection, yes.</p> <p>6 Q. Step three was not administered by ECFMG,</p> <p>7 was it?</p> <p>8 A. It was not.</p> <p>9 Q. It was administered by whom?</p> <p>10 A. My recollection was that it was</p> <p>11 administered by state medical boards.</p> <p>12 Q. And am I correct in saying that an IMG</p> <p>13 applicant could not sit for step three of the USLME</p> <p>14 unless he or she was certified by ECFMG?</p> <p>15 MS. MCENROE: Objection to form.</p> <p>16 A. I believe that was the process in most, if</p> <p>17 not all states, yes.</p> <p>18 BY MR. VETTORI:</p> <p>19 Q. So again, this is just a general question,</p> <p>20 Mr. Kelly. And again, we're referring to this time</p> <p>21 period that I framed from 1992 through 2000. Let's</p> <p>22 say through 1996.</p> <p>23 Is it correct to say that an IMG couldn't</p> <p>24 practice medicine in the United States without being</p> <p>25 certified by ECFMG?</p>
<p style="text-align: right;">8</p> <p>1 meant.</p> <p>2 A. Yes.</p> <p>3 Q. And was step two basic clinical science</p> <p>4 material?</p> <p>5 A. Yes.</p> <p>6 Q. And both were, at that time, two-day</p> <p>7 multiple choice tests administered by ECFMG; is that</p> <p>8 correct?</p> <p>9 A. My -- that -- I have no independent</p> <p>10 recollection of that. Just from what's on the form</p> <p>11 the answer would be yes.</p> <p>12 Q. So am I correct that in addition to</p> <p>13 successfully -- again, I'm in this 1992 to 1996</p> <p>14 period. Am I correct that in addition to pass --</p> <p>15 successfully completing steps one and two of the</p> <p>16 USLME exams an applicant would also -- an IMG</p> <p>17 applicant would also have to pass an English test?</p> <p>18 A. Yes.</p> <p>19 Q. And in addition, before ECFMG would</p> <p>20 certify an applicant there had to be primary source</p> <p>21 verification of that applicant's medical</p> <p>22 credentials; is that correct?</p> <p>23 A. Of their medical diploma, yes.</p> <p>24 Q. Nothing more than their diploma?</p> <p>25 A. Generally not.</p>	<p style="text-align: right;">20</p> <p>1 MS. MCENROE: Objection to form.</p> <p>2 A. That is not correct.</p> <p>3 BY MR. VETTORI:</p> <p>4 Q. How would they practice without a</p> <p>5 certification from ECFMG?</p> <p>6 A. My -- the best of my recollection is that</p> <p>7 state licenses are granted by the individual state</p> <p>8 medical boards and there were different pathways,</p> <p>9 for example, the Fifth Pathway program for graduates</p> <p>10 of medical schools in Mexico that were not required</p> <p>11 to have ECFMG certificates.</p> <p>12 Q. Are there any other countries where that</p> <p>13 applied?</p> <p>14 A. I don't recall.</p> <p>15 Q. How about Nigeria? Did it apply to</p> <p>16 graduates of medical schools in Nigeria?</p> <p>17 A. I do not believe so.</p> <p>18 Q. So with respect to graduates of Nigeria</p> <p>19 medical schools in the time period we're talking</p> <p>20 about, an IMG couldn't obtain a medical license in</p> <p>21 the United States without being certified by ECFMG,</p> <p>22 correct?</p> <p>23 MS. MCENROE: Objection to form.</p> <p>24 A. It would have been very, very unlikely,</p> <p>25 yes.</p>

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6 (21 to 24)

<p>2</p> <p>1 BY MR. VETTORI:</p> <p>2 Q. Well, can you even sit for the -- at that</p> <p>3 time period, could you even sit for step three exams</p> <p>4 without being certified by ECFMG?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 A. A graduate of a Nigerian medical school?</p> <p>7 BY MR. VETTORI:</p> <p>8 Q. Yes.</p> <p>9 A. To best of my recollection, no.</p> <p>10 Q. And in that same time period a graduate of</p> <p>11 a Nigerian medical school wouldn't be permitted to</p> <p>12 take -- wouldn't be licensed by any state in the</p> <p>13 United States unless he or she successfully</p> <p>14 completed step three of USMLE; isn't that correct?</p> <p>15 MS. MCENROE: Objection to form.</p> <p>16 A. If they were applying for an initial</p> <p>17 license and had not passed the earlier licensing</p> <p>18 examination, yes.</p> <p>19 BY MR. VETTORI:</p> <p>20 Q. So would you agree with me that ECFMG</p> <p>21 works on behalf of domestic and international</p> <p>22 regulatory authorities to protect the public for</p> <p>23 which programs and services, including primary</p> <p>24 source verification, of physician credentials?</p> <p>25 MS. MCENROE: Objection.</p>	<p>23</p> <p>1 ECFMG works on behalf of domestic regulatory</p> <p>2 authorities to protect the public through its</p> <p>3 programs and services including primary source</p> <p>4 verification of physician credentials?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 A. I would say yes.</p> <p>7 BY MR. VETTORI:</p> <p>8 Q. Would it be accurate to say that ECFMG</p> <p>9 protects the public by, among other ways, seeing</p> <p>10 that foreign medical graduates have completed an</p> <p>11 acceptable medical education?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. In that that's part of the certification</p> <p>14 process, yes.</p> <p>15 BY MR. VETTORI:</p> <p>16 Q. And would it be accurate to say that ECFMG</p> <p>17 serves to protect the public by seeing to it that</p> <p>18 foreign medical graduates can successfully pass the</p> <p>19 requirements of the USLME examinations?</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. Yes.</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. Would it also be accurate to say that</p> <p>24 ECFMG protects the public by ensuring that foreign</p> <p>25 medical graduates meet certain standards of</p>
<p>22</p> <p>1 BY MR. VETTORI:</p> <p>2 Q. Do you agree with that statement?</p> <p>3 A. Would you repeat that for me, please?</p> <p>4 BY MR. VETTORI:</p> <p>5 Q. ECFMG works on behalf of domestic and</p> <p>6 international regulatory authorities to protect the</p> <p>7 public through its programs and services, including</p> <p>8 primary source verification of physician</p> <p>9 credentials?</p> <p>10 MS. MCENROE: Objection to form.</p> <p>11 A. That appears to be a statement of what it</p> <p>12 currently does and I really don't have any direct</p> <p>13 knowledge of that. It appears to be a contemporary</p> <p>14 statement.</p> <p>15 BY MR. VETTORI:</p> <p>16 Q. You don't believe that statement applied</p> <p>17 during the period of time you were employed by</p> <p>18 ECFMG?</p> <p>19 A. During part of that period.</p> <p>20 Q. When did that --</p> <p>21 A. The international part I don't think was</p> <p>22 part of it back in the time frame you're talking</p> <p>23 about.</p> <p>24 Q. Okay. So let me rephrase it, give you --</p> <p>25 ask you if you agree with the following statement.</p>	<p>24</p> <p>1 professional conduct, such as honesty?</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 A. That's difficult for me to say. I don't</p> <p>4 know that that's specifically spelled out.</p> <p>5 BY MR. VETTORI:</p> <p>6 Q. Well, isn't that what happened in the</p> <p>7 situation that brings us here today?</p> <p>8 MS. MCENROE: Objection to form.</p> <p>9 BY MR. VETTORI:</p> <p>10 Q. Do you understand what I'm asking you?</p> <p>11 A. Yes.</p> <p>12 Q. Yes, you understand what I'm asking you or</p> <p>13 yes, that's what happened here?</p> <p>14 A. Oh, I don't know that that's what happened</p> <p>15 here.</p> <p>16 Q. So you understand my question?</p> <p>17 A. Could you repeat the question?</p> <p>18 Q. What I'm asking you is, isn't one of the</p> <p>19 ways that the ECFMG protects the public is to ensure</p> <p>20 that an IMG reports with certain standards of</p> <p>21 conduct including honesty?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. I don't know if I can say that.</p> <p>24 BY MR. VETTORI:</p> <p>25 Q. Well, from your review of the material</p>

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7 (25 to 28)

<p>25</p> <p>1 that you reviewed in preparation for this</p> <p>2 deposition, are you aware that, for example, the</p> <p>3 person who identified himself with the last name of</p> <p>4 Igberase successfully completed steps one and two</p> <p>5 and the English examination? Were you aware of</p> <p>6 that?</p> <p>7 A. Independently?</p> <p>8 Q. Yes.</p> <p>9 A. No.</p> <p>10 Q. When you say independently -- let me</p> <p>11 rephrase.</p> <p>12 From your review of the material that you</p> <p>13 reviewed in this case, are you aware that this</p> <p>14 gentleman with the last name Igberase successfully</p> <p>15 completed steps one and two of the USLME?</p> <p>16 A. I don't recall that.</p> <p>17 Q. Let me ask you: Do you recall that he was</p> <p>18 certified at one point by ECFMG?</p> <p>19 A. That I recall, yes.</p> <p>20 Q. He couldn't have been certified by ECFMG</p> <p>21 unless he met the examination requirements, could he</p> <p>22 have been?</p> <p>23 A. Yes, but the examinations could have been</p> <p>24 different examinations.</p> <p>25 Q. But whatever examinations were required</p>	<p>27</p> <p>1 dishonest?</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 A. I don't know that it's up to me to make</p> <p>4 that...</p> <p>5 BY MR. VETTORI:</p> <p>6 Q. All right. So his -- the revocation of</p> <p>7 his certificate had nothing to do with his medical</p> <p>8 ability, for want of a better term, correct?</p> <p>9 A. That is my recollection.</p> <p>10 Q. It had to do with the way in which he made</p> <p>11 applications to ECFMG on multiple occasions and/or</p> <p>12 took examinations on multiple occasions, correct?</p> <p>13 MS. MCENROE: Objection to form.</p> <p>14 A. It was based -- my recollection is it was</p> <p>15 based on providing false information on an</p> <p>16 application.</p> <p>17 BY MR. VETTORI:</p> <p>18 Q. Isn't that equivalent to dishonesty?</p> <p>19 MS. MCENROE: Objection to form.</p> <p>20 Calls for opinion.</p> <p>21 A. It wouldn't be up to me to characterize</p> <p>22 that.</p> <p>23 (Exhibit No. 2 marked for</p> <p>24 identification.)</p> <p>25 BY MR. VETTORI:</p>
<p>26</p> <p>1 for him, he would have had to have successfully</p> <p>2 completed them in order to become certified?</p> <p>3 A. Yes.</p> <p>4 Q. So do you also recall from your review of</p> <p>5 material in this case that this gentleman by the</p> <p>6 name of Igberase met all of the medical education</p> <p>7 requirements, that is they were verified by ECFMG?</p> <p>8 A. Yes, I recall that.</p> <p>9 Q. And do you recall that he was actually</p> <p>10 certified? I may have asked that already, but --</p> <p>11 A. At one point, yes.</p> <p>12 Q. And his certification was revoked,</p> <p>13 correct?</p> <p>14 A. That is my recollection.</p> <p>15 Q. And I'm going to get into that detail</p> <p>16 about that later. For general purposes, I'm asking</p> <p>17 that question.</p> <p>18 And wasn't his certification revoked</p> <p>19 because he was dishonest, he lied on his</p> <p>20 applications?</p> <p>21 MS. MCENROE: Objection to form.</p> <p>22 A. He answered a question incorrectly is my</p> <p>23 recollection, yes.</p> <p>24 BY MR. VETTORI:</p> <p>25 Q. You're not willing to concede that he was</p>	<p>28</p> <p>1 Q. So I believe the document that you've been</p> <p>2 handed, Mr. Kelly, begins on the first page with the</p> <p>3 Bates number 0000155; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Have you -- in your preparation for this</p> <p>6 deposition did you review that document?</p> <p>7 A. I don't recall.</p> <p>8 Q. You see the number up at the right-hand</p> <p>9 corner of the document on the first page?</p> <p>10 A. Yes.</p> <p>11 Q. Is that like an incomplete number because</p> <p>12 of the way it was copied or for any other reason?</p> <p>13 A. The long answer is this was printed by</p> <p>14 machine and although the applicant identification</p> <p>15 numbers were 7 digits, the machine only printed the</p> <p>16 first six and the seventh was added by hand.</p> <p>17 Q. So I take it that this identification</p> <p>18 number, the 482-700, whatever the last number is, I</p> <p>19 have the document, I can find it if you need it, was</p> <p>20 assigned to this gentleman by the name of Igberase</p> <p>21 when he made, as part of his application, to take</p> <p>22 certain examinations; is that correct?</p> <p>23 A. That is my recollection of the process at</p> <p>24 that time, yes.</p> <p>25 Q. And as I look at this stamp on the bottom</p>

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8 (29 to 32)

<p>29</p> <p>1 left, it looks like it was filed, that is received 2 by ECFMG on April 6, 1992; is that correct? 3 A. Yes. 4 Q. And do you see in the middle of page 1 5 that he submitted a Social Security number ending in 6 5054? 7 A. Yes. 8 Q. Item four? 9 A. Yes, I see that. 10 Q. If you'll turn to page 2, what is the date 11 of birth he provided? 12 A. It looks as though it says the 17th of 13 April 1962. 14 Q. When ECFMG receives -- I'm sorry. When 15 ECFMG received this application, was any of the 16 information contained on this form, I guess it's 17 Exhibit 2, inputted into a -- this is a dinosaur 18 talking, I don't know computer terminology -- into a 19 computer program? 20 MS. MCENROE: Objection to form. 21 A. That was the procedure at this time. What 22 happened to this specific one, I could not say for 23 certain. 24 BY MR. VETTORI: 25 Q. And this may be difficult to answer, but</p>	<p>3</p> <p>1 outside. 2 Q. And how about in 1996? 3 A. I don't recall. 4 (Exhibit No. 3 marked for 5 identification.) 6 BY MR. VETTORI: 7 Q. As part of your review in preparation for 8 this deposition, did you review this document? 9 A. I don't recall this specific one, but I 10 may have. 11 Q. For the record, this is what purports to 12 be a diploma from the University of Ibadan for 13 someone by the name of Charles Olufemi, 14 O-L-U-F-E-M-I, Igberase, I-G-B-E-R-A-E-S-E. Would 15 it be the normal practice of ECFMG in 1992 to 16 require someone like Mr. Igberase who filled out the 17 application we just reviewed to also submit a 18 diploma? 19 A. Yes. 20 Q. But you don't have any specific 21 recollection about this diploma? 22 A. No. 23 Q. Do you have an independent recollection or 24 a recollection that's been refreshed by your review 25 of documents in this case as to whether ECFMG issued</p>
<p>30</p> <p>1 just in general terms was there a specific computer 2 program set up to deal with IMGs who applied to take 3 certain medical examinations? 4 MS. MCENROE: Objection to form. 5 A. When you say computer program, I know we 6 captured certain information from the application in 7 the computer system, yes. 8 BY MR. VETTORI: 9 Q. And for the most part -- strike that. 10 Would ECFMG do that, I mean, input the 11 information on the application any time an IMG 12 submitted this application, this type of 13 application? 14 MS. MCENROE: Objection to form. 15 A. The procedure was to enter some, but not 16 all of the information from the application. 17 BY MR. VETTORI: 18 Q. Was your computer program like a software 19 package that you either developed internally or 20 acquired commercially? 21 MS. MCENROE: Objection to form. 22 A. My recollection is yes. 23 BY MR. VETTORI: 24 Q. Which? 25 A. In 1992 I think it was developed</p>	<p>32</p> <p>1 a certificate to someone with the last name 2 Igberase? 3 A. Yes. 4 Q. Do you have any recollection, 5 independently or as refreshed by your review of 6 records in this case approximately when that was 7 done? 8 A. I don't recall. 9 Q. So I think the last digit that's missing 10 is zero. We'll show that later. It says zero. 11 MR. VETTORI: Off the record. 12 (Discussion off the record.) 13 BY MR. VETTORI: 14 Q. So accept for the purposes of my next 15 question that he was certified, he being 16 Mr. Igberase, on October 4, 1993, okay? I know you 17 didn't remember that, but accept it for purposes of 18 my next question. 19 Would I be correct in stating that 20 that means he had passed the required medical 21 examinations and the English examination -- when I 22 say required, either steps one and two of the USMLE 23 or the equivalent, and you had verified his diploma? 24 MS. MCENROE: Objection to form. 25 A. That was the process for certification,</p>

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9 (33 to 36)

<p>33</p> <p>1 yes.</p> <p>2 BY MR. VETTORI:</p> <p>3 Q. Certification --</p> <p>4 A. ECFMG certification.</p> <p>5 Q. To be clear, ECFMG will not issue a</p> <p>6 certificate to an IMG -- I hate to sound like</p> <p>7 alphabet soup, but -- unless the applicant passes</p> <p>8 the required medical examinations and the English</p> <p>9 exam and ECFMG is able to verify the medical</p> <p>10 credentials, I think you said the diploma; is that</p> <p>11 correct?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. As a general rule. There are always</p> <p>14 exceptions.</p> <p>15 BY MR. VETTORI:</p> <p>16 Q. So what type of exceptions?</p> <p>17 A. My recollection was that, for example, for</p> <p>18 the diploma verification the board had authorized</p> <p>19 use of sworn affidavits in the case of people who</p> <p>20 were refugees from certain countries where the</p> <p>21 schools would not respond to verification or they</p> <p>22 had fled their country and couldn't bring out their</p> <p>23 diploma and there was review by a standing</p> <p>24 committee, the board of credentials committee would</p> <p>25 look at individuals on a case-by-case basis.</p>	<p>35</p> <p>1 A. As a general rule, yes.</p> <p>2 BY MR. VETTORI:</p> <p>3 Q. IMGs who applied for certification by</p> <p>4 ECFMG were not required to submit transcripts of</p> <p>5 their medical school, were they, or were they?</p> <p>6 MS. MCENROE: Objection to form.</p> <p>7 A. At that time, no.</p> <p>8 BY MR. VETTORI:</p> <p>9 Q. So when an applicant such as Mr. Igberase</p> <p>10 provided you -- I'm sorry -- provided ECFMG with a</p> <p>11 diploma, would I be correct in stating that ECFMG</p> <p>12 would forward that with a form to the medical school</p> <p>13 for the medical school to verify the accuracy or the</p> <p>14 authenticity of that document, the diploma?</p> <p>15 A. That was the procedure, yes.</p> <p>16 (Exhibit No. 4 marked for</p> <p>17 identification.)</p> <p>18 BY MR. VETTORI:</p> <p>19 Q. Do you recall reviewing this document as</p> <p>20 part of the review you did in preparation for this</p> <p>21 deposition?</p> <p>22 A. I have no recollection of this specific</p> <p>23 document.</p> <p>24 Q. I'll represent to you that this is an</p> <p>25 application filed by someone with the last name</p>
<p>34</p> <p>1 Q. Thank you. You testified a little earlier</p> <p>2 that ECFMG required IMGs to submit diplomas,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And it was only the diploma that had to be</p> <p>6 verified; is that your testimony?</p> <p>7 A. At that time, yes.</p> <p>8 Q. When did that change?</p> <p>9 A. I don't know that it changed. I have no</p> <p>10 independent knowledge that it changed.</p> <p>11 Q. So your recollection is that during the</p> <p>12 entire -- what did we say, thirty-five, thirty-eight</p> <p>13 years that you were at ECFMG?</p> <p>14 A. Thirty-seven and a half.</p> <p>15 Q. It didn't change, only the diplomas were</p> <p>16 required?</p> <p>17 A. Not the whole time. And there was a</p> <p>18 period before 1986 -- 1984 or 1986 where we did not</p> <p>19 require primary source verification directly with</p> <p>20 the medical school.</p> <p>21 Q. But in the period of time that we're</p> <p>22 talking about here today, which I've mentioned</p> <p>23 probably too many times already, the diploma was the</p> <p>24 only thing that had to be verified?</p> <p>25 MS. MCENROE: Objection to form.</p>	<p>36</p> <p>1 Charles, first name Igberase, middle name Oluwafemi,</p> <p>2 and this looks like -- I'm going to ask you to</p> <p>3 verify this -- that it was received by ECFMG on</p> <p>4 March 30, 1994?</p> <p>5 A. I can't make out the date, but it could be</p> <p>6 that, yes. It's difficult to read.</p> <p>7 Q. Do you see anywhere -- do you see in item</p> <p>8 four whether a Social Security number was</p> <p>9 provided?</p> <p>10 A. I do not see one on this copy.</p> <p>11 Q. And again, I'm sorry, for the record this</p> <p>12 is Bates number 0000407, correct?</p> <p>13 A. Yes.</p> <p>14 Q. So turn to page 408, the next page. What</p> <p>15 date of birth is provided?</p> <p>16 A. 17th day, fourth month, year '61.</p> <p>17 Q. So I take it since you don't recall</p> <p>18 reviewing this, you can't tell me whether the</p> <p>19 medical information -- the medical school</p> <p>20 information on that form is almost identical to the</p> <p>21 information on the form filed by Mr. Igberase,</p> <p>22 correct?</p> <p>23 MS. MCENROE: Objection to form.</p> <p>24 BY MR. VETTORI:</p> <p>25 Q. You didn't make that comparison?</p>

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10 (37 to 40)

<p>37</p> <p>1 A. I don't recall.</p> <p>2 Q. Do you know, either independently of your</p> <p>3 own personal knowledge or from any review you made</p> <p>4 in this case prior to this deposition, whether a new</p> <p>5 identification number was assigned to a gentleman</p> <p>6 with the last name Charles?</p> <p>7 A. On this document I see where there's -- an</p> <p>8 identification number has been put on it.</p> <p>9 Q. Is that the 51?</p> <p>10 A. It looks -- that's what it appears to be,</p> <p>11 519-573.</p> <p>12 Q. And that would be consistent with ECFMG's</p> <p>13 then practice to assign an identification number to</p> <p>14 an applicant when he or she first applies,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. So would you agree with me that ECFMG</p> <p>18 interpreted this application as coming from someone</p> <p>19 other than Mr. Igberase?</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. Yeah, I don't know that I understand the</p> <p>22 question.</p> <p>23 BY MR. VETTORI:</p> <p>24 Q. Okay. So Mr. Igberase, we've looked at</p> <p>25 his application. Do you need to look at it again?</p>	<p>39</p> <p>1 MR. VETTORI: What's the exhibit</p> <p>2 number, I'm sorry?</p> <p>3 MS. MCENROE: Four.</p> <p>4 A. Four.</p> <p>5 Q. -- was, quote, inputted into the computer</p> <p>6 program?</p> <p>7 MS. MCENROE: Objection to form.</p> <p>8 A. I have no personal knowledge that that was</p> <p>9 done.</p> <p>10 BY MR. VETTORI:</p> <p>11 Q. And you don't have any refreshed</p> <p>12 recollection as a result of the review you did in</p> <p>13 this case?</p> <p>14 A. No.</p> <p>15 Q. So is it fair for me to say that within</p> <p>16 several months of the receipt by ECFMG of the</p> <p>17 application by the gentleman with the last name</p> <p>18 Charles --</p> <p>19 A. Exhibit 4.</p> <p>20 Q. Exhibit 4.</p> <p>21 A. Right.</p> <p>22 Q. -- ECFMG became suspicious that he and</p> <p>23 Mr. Igberase were one and the same person?</p> <p>24 MS. MCENROE: Objection to form.</p> <p>25 A. I have no knowledge of that.</p>
<p>38</p> <p>1 A. No, I recall it.</p> <p>2 Q. He's assigned an identification number,</p> <p>3 correct?</p> <p>4 A. According to that application, yes.</p> <p>5 Q. And it's different from the identification</p> <p>6 number assigned to this gentleman by the name of</p> <p>7 Charles, correct?</p> <p>8 A. Yes.</p> <p>9 Q. ECFMG wouldn't assign a new number if it</p> <p>10 thought these were one and the same person, would</p> <p>11 it?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. This number -- the procedure would have</p> <p>14 been that this number would have been assigned</p> <p>15 because we checked that he had not previously</p> <p>16 applied for an examination.</p> <p>17 Q. And that implies that ECFMG didn't think</p> <p>18 he was the same person as Mr. Igberase, correct?</p> <p>19 MS. MCENROE: Objection to form.</p> <p>20 A. I don't know that. Just that I think what</p> <p>21 we felt was he had not previously applied, yeah.</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. And consistent with ECFMG's practice at</p> <p>24 the time, do you have any personal knowledge as to</p> <p>25 whether the information on this application --</p>	<p>40</p> <p>1 (Exhibit No. 5 marked for</p> <p>2 identification.)</p> <p>3 BY MR. VETTORI:</p> <p>4 Q. I know you haven't had time to read it</p> <p>5 because I'm watching you. Did you review this</p> <p>6 document in preparation for this deposition?</p> <p>7 A. I may have, I don't recall this specific</p> <p>8 one.</p> <p>9 Q. So this is your letter; is it not?</p> <p>10 A. Yes, it appears to be.</p> <p>11 Q. So I'm prepared for you to take as much as</p> <p>12 as you want to read it, if you feel it necessary in</p> <p>13 order to answer my questions.</p> <p>14 MS. MCENROE: It's a short letter,</p> <p>15 why don't we just give him a quick minute to scan</p> <p>16 over it.</p> <p>17 MR. VETTORI: Sure. Fairness to the</p> <p>18 witness, I'm happy to do that.</p> <p>19 A. (Complies.) I finished reading it.</p> <p>20 Q. So wouldn't you agree with me that when</p> <p>21 you wrote that letter, ECFMG had decided that there</p> <p>22 was a possible connection between Mr. Charles and</p> <p>23 Mr. Igberase?</p> <p>24 MS. MCENROE: Objection to form.</p> <p>25 A. That the -- that these two applications</p>

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11 (41 to 44)

<p>4</p> <p>1 were for the same individual, yes.</p> <p>2 Q. Correct. Right. And you in fact told him</p> <p>3 that you were conducting an investigation in this</p> <p>4 matter, correct?</p> <p>5 A. In the letter, yes.</p> <p>6 Q. And you told him he needed to write to</p> <p>7 ECFMG to explain why he certified on his Charles</p> <p>8 application that he had never taken the exams</p> <p>9 before, correct?</p> <p>10 A. That he had not previously applied for</p> <p>11 exams, yes.</p> <p>12 Q. Do you have any independent recollection</p> <p>13 of what it is that triggered ECFMG to write -- to</p> <p>14 have you write this letter?</p> <p>15 A. No.</p> <p>16 Q. How did you catch on to them?</p> <p>17 A. I don't recall.</p> <p>18 Q. That's not an unfair way to characterize</p> <p>19 it, is it?</p> <p>20 MS. MCENROE: Objection.</p> <p>21 BY MR. VETTORI:</p> <p>22 Q. How you caught on to him?</p> <p>23 MS. MCENROE: Objection.</p> <p>24 A. Why we started the investigation, yeah.</p> <p>25 (Exhibit No. 6 marked for</p>	<p>43</p> <p>1 Q. Do you have an independent recollection of</p> <p>2 receiving this letter?</p> <p>3 A. No.</p> <p>4 Q. As part of your review to prepare for this</p> <p>5 deposition, did you review it?</p> <p>6 A. This letter, yes.</p> <p>7 Q. So would you agree with me that this is a</p> <p>8 letter in response to the prior exhibit when you</p> <p>9 wrote to him saying you were investigating the</p> <p>10 matter and he should write to you?</p> <p>11 A. Yes.</p> <p>12 Q. And would you agree with me that in this</p> <p>13 letter he confesses to the fact that he's really</p> <p>14 Igberase, that he and Igberase are one and the same</p> <p>15 person?</p> <p>16 A. Yes.</p> <p>17 Q. And would you agree with me that basically</p> <p>18 he blamed what he did on his friends?</p> <p>19 MS. MCENROE: Objection to form.</p> <p>20 A. I don't know that I would characterize it</p> <p>21 that way.</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. Well, take a look at the middle of page 2.</p> <p>24 He says, "As a result of these" -- meaning his</p> <p>25 inability to get into 150 residency programs, any of</p>
<p>42</p> <p>1 identification.)</p> <p>2 (Discussion off the record.)</p> <p>3 BY MR. VETTORI:</p> <p>4 Q. So Mr. Kelly, Exhibit 6 is a handwritten</p> <p>5 letter, which is dated in the upper right-hand side</p> <p>6 July 14, 1995, and received at ECFMG on July 20,</p> <p>7 1995. Can we agree on that?</p> <p>8 A. Yes.</p> <p>9 Q. And it's Bates number 0000433 through 437.</p> <p>10 Can we agree on that?</p> <p>11 A. Yes.</p> <p>12 Q. And it is signed -- well, it says,</p> <p>13 "Sincerely, Igberase Oluwafemi Charles" and it has</p> <p>14 that 519 certification number. Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And is it your understanding -- I'm sorry,</p> <p>17 have you had time to look at it?</p> <p>18 A. Give me a minute. I can look at this,</p> <p>19 yeah.</p> <p>20 (Complies.)</p> <p>21 MS. MCENROE: I've finished reviewing</p> <p>22 it.</p> <p>23 BY MR. VETTORI:</p> <p>24 Q. Okay. Do you remember this letter?</p> <p>25 A. Remember?</p>	<p>44</p> <p>1 150 -- "I explained to my friends, who felt I should</p> <p>2 take the test over again to improve on my scores</p> <p>3 despite my difficult position, they suggested that</p> <p>4 since I had already been issued one ECFMG</p> <p>5 certificate I could not possibly use that same</p> <p>6 number again to sit for new tests."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Isn't that, in fact, blaming it on his</p> <p>10 friends?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 A. To me they're suggesting a course of</p> <p>13 action for him to take.</p> <p>14 BY MR. VETTORI:</p> <p>15 Q. And he followed that course of action?</p> <p>16 A. I don't see that they're telling him to</p> <p>17 provide a false response on the application. That's</p> <p>18 what he did.</p> <p>19 Q. But he did admit to lying on the</p> <p>20 application, correct?</p> <p>21 A. In his letter, yes.</p> <p>22 Q. And would you turn to page 436, page 4 of</p> <p>23 the letter?</p> <p>24 A. Yes.</p> <p>25 Q. Isn't it true that he told you that in the</p>

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12 (45 to 48)

<p style="text-align: right;">45</p> <p>1 future -- that the future records he was going to 2 use the name Igberase Oluwafemi Charles? 3 A. Yes. 4 Q. So after receiving this handwritten letter 5 in response to your letter, did the committee on 6 medical education credentials meet to review the 7 matter? 8 A. That is my recollection, yes. 9 MR. VETTORI: Let me show him the 10 letter and we can stop right here after this. 11 (Exhibit No. 7 marked for 12 identification.) 13 BY MR. VETTORI: 14 Q. It's a short letter. Why don't you read 15 it, please. 16 A. (Complies.) I finished reading it. 17 Q. So this letter is signed by you? 18 A. Yes. 19 Q. And this letter is telling, I guess both 20 Charles and Igberase, what the results are of the 21 meeting of the education -- ECFMG committee on 22 medical education credentials; is that correct? 23 A. Yes. 24 Q. And as I understand it, the decision of 25 the committee was to invalidate the ECFMG</p>	<p style="text-align: right;">47</p> <p>1 MR. VETTORI: It is with me. 2 MR. KLAYMAN: And with me. 3 MS. MCENROE: Thank you. Go back 4 off. 5 (Recess taken at 10:35 a.m.) 6 (Back on the record at 10:45 a.m.) 7 (Exhibit No. 8 marked for 8 identification.) 9 BY MR. VETTORI: 10 Q. So I'm going to let you read this letter, 11 but let me just point out to you, first of all, it's 12 Bates number 5074 through 5076 with attachments, 13 okay? 14 A. I have -- 15 Q. Multiple attachments. 16 A. My last one is 167. 17 MS. MCENROE: You know what, it looks 18 like, just for purposes of the record, that last 19 page looks to have been a duplicate of Exhibit 7 20 stapled to the back of Exhibit 8. 21 BY MR. VETTORI: 22 Q. Okay. So before you read it, okay, take a 23 look at it. This appears to me to be a letter that 24 you wrote dated December 7, 1995, which, Mr. Kelly, 25 I'll point out to you is the same date that you</p>
<p style="text-align: right;">46</p> <p>1 certificate issued as 0519573-0, correct? 2 A. Yes. 3 Q. That's the one that was issued to the 4 gentleman by the name of Charles, correct? 5 A. I have no independent knowledge of that. 6 Q. And also is telling Charles and Igberase 7 that ECFMG was revoking the certificate issued under 8 0482700-2, correct? 9 A. Yes. 10 Q. And isn't that the certificate issued to 11 Mr. Igberase? 12 A. That I don't know. 13 MR. VETTORI: This is a good time to 14 take a break. 15 MS. MCENROE: Off the record. 16 (Discussion off the record.) 17 MS. MCENROE: So can we hop back on 18 the record just for two quick things for the 19 purposes of the record? 20 On behalf of ECFMG we are reserving 21 the right to review and sign today's transcript. 22 And we've also discussed with counsel a stipulation 23 that all objections, except as to the form, are 24 reserved for the time of trial, if that is 25 acceptable with you-all as well.</p>	<p style="text-align: right;">48</p> <p>1 wrote the letter to Igberase, correct? 2 A. Yes. 3 Q. Which was Exhibit 6 -- no, 7. And this is 4 a letter that you're writing to a Mr. Kenneth Cotton 5 at USLME; is that correct? 6 A. Yes. 7 Q. I want you to take as much time as you 8 want to read it, but I would suggest to you at the 9 end I'm going to ask you would you agree with me 10 that this is pretty much summarizing all of the 11 events leading up to your December 7th letter. 12 Okay. So take your time. 13 MS. MCENROE: Objection to form. 14 A. (Complies.) Okay, I finished reading the 15 letter. 16 BY MR. VETTORI: 17 Q. So would you agree with me that this is 18 pretty much summarizing what's taken place up to and 19 including your December 7th letter? 20 A. It appears to be a well-written summary. 21 Q. So you know something? I wrote that on 22 there. It is a very good summary. 23 So I had asked you previously a question 24 something like what is it that triggered ECFMG to 25 suspect that Charles and Igberase were the same</p>

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13 (49 to 52)

<p>49</p> <p>1 person. Do you remember that?</p> <p>2 A. Yes, I recall you asked.</p> <p>3 Q. And you don't remember?</p> <p>4 A. I do not.</p> <p>5 Q. So at the bottom of page 1 of your letter</p> <p>6 you wrote to Mr. Cotton saying "since the name on</p> <p>7 the application was altered" -- I'm going to stop</p> <p>8 you right there. When you say "altered," do you</p> <p>9 mean rearranged?</p> <p>10 A. That may be what I meant.</p> <p>11 Q. And then you said, "and the year of birth</p> <p>12 changed."</p> <p>13 My recollection is that Igberase had</p> <p>14 a 1962 birth date and Charles had a 1961 birth date?</p> <p>15 A. And that's stated in this letter, yeah.</p> <p>16 Q. Right. And you say that ECFMG's search of</p> <p>17 its database at that time did not show that he had</p> <p>18 previously applied and been assigned an ECFMG</p> <p>19 identification number.</p> <p>20 What search of the database had taken</p> <p>21 place, do you remember?</p> <p>22 A. I can tell you what the procedure or</p> <p>23 process was at that time.</p> <p>24 MR. VETTORI: Objection as to form.</p> <p>25 Q. Go ahead, please.</p>	<p>5</p> <p>1 the diploma and the person whose name is on the</p> <p>2 application are really the same person?</p> <p>3 MS. MCENROE: Objection to form.</p> <p>4 A. Yes.</p> <p>5 BY MR. VETTORI:</p> <p>6 Q. Okay. When did that policy, practice, or</p> <p>7 procedure first go into effect?</p> <p>8 A. I don't recall the date.</p> <p>9 Q. Was it effective as of 1995?</p> <p>10 A. I don't recall it being in effect at that</p> <p>11 time.</p> <p>12 Q. What is that policy, practice, or</p> <p>13 procedure?</p> <p>14 A. Okay. And I'm -- again, this is at the</p> <p>15 time it was in place when I was there. I mean,</p> <p>16 again, I don't know what it is now, that if there is</p> <p>17 a -- a significant -- a discrepancy between the name</p> <p>18 on the diploma and the name they're using when they</p> <p>19 apply for the examination that they provide</p> <p>20 certain -- some sort of documentation to connect</p> <p>21 that -- to indicate the two names belong to the same</p> <p>22 person.</p> <p>23 Q. But is it your testimony that you don't</p> <p>24 believe that policy was in effect, at least not in</p> <p>25 1995?</p>
<p>50</p> <p>1 MS. MCENROE: You may answer the</p> <p>2 question.</p> <p>3 A. Okay. The procedure at that time was any</p> <p>4 individual indicating he or she had not previously</p> <p>5 applied and not providing an ID number, part of the</p> <p>6 process was to search the database against certain</p> <p>7 biographical elements, and I can't remember</p> <p>8 specifically which ones they were, to see if that</p> <p>9 individual could potentially already have an</p> <p>10 identification number.</p> <p>11 BY MR. VETTORI:</p> <p>12 Q. I appreciate the fact that you can't</p> <p>13 remember, we're going back a long time now. But it</p> <p>14 seems to me, at least implicitly, that by your</p> <p>15 statement at the bottom of page 2, two of the ways</p> <p>16 you would have searched your database would have</p> <p>17 been by the name and by the date of birth; would</p> <p>18 that be correct?</p> <p>19 A. Yes, that's fair.</p> <p>20 Q. So let me ask you this: Has ECFMG ever</p> <p>21 had a practice, policy, or procedure whereby if a</p> <p>22 name of an applicant on a diploma is different than</p> <p>23 the name on the application, you required that</p> <p>24 application to do something to satisfy ECFMG that</p> <p>25 the name on the -- that the person whose name is on</p>	<p>52</p> <p>1 A. I don't recall it being in effect.</p> <p>2 Q. Well, is it that it was -- you don't</p> <p>3 recall whether --</p> <p>4 A. I don't believe it was in effect.</p> <p>5 Q. Thank you. So will you turn to, again to</p> <p>6 page -- well, not again. Turn to page 2 of that</p> <p>7 letter, that being Exhibit 8, and it's Bates number</p> <p>8 5075. Do you see what I call a chart at the bottom</p> <p>9 of the page?</p> <p>10 A. Yes.</p> <p>11 Q. And as I understand it, this is a chart of</p> <p>12 the examinations, the dates of the examination, and</p> <p>13 the scores taken by, I think it's both Igberase and</p> <p>14 Charles; am I correct in that?</p> <p>15 A. You keep saying both and I'm -- I don't</p> <p>16 know that they're two different individuals, but</p> <p>17 under one identification number, under the two</p> <p>18 different identification numbers.</p> <p>19 Q. Under the two identification numbers?</p> <p>20 A. Right.</p> <p>21 Q. Okay. So these are the examinations,</p> <p>22 dates, and scores for the person who had</p> <p>23 identification number 04827002 and the person who</p> <p>24 had identification number 05195730, correct?</p> <p>25 A. Yes.</p>

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14 (53 to 56)

<p>53</p> <p>1 Q. Okay. And so it looks to me like the</p> <p>2 person who took the July 1992 day one and day two</p> <p>3 exams failed; is that correct?</p> <p>4 A. Failed in July 1992.</p> <p>5 Q. Correct.</p> <p>6 A. Yes.</p> <p>7 Q. And failed step one in September 1992; is</p> <p>8 that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And failed day one in January 1993; is</p> <p>11 that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have an independent recollection or</p> <p>14 a recollection refreshed by any review of documents</p> <p>15 you made prior to this deposition as to whether the</p> <p>16 applicant by the name of Charles took an appeal from</p> <p>17 the decision of the committee that's reflected in</p> <p>18 your December 7, 1995, letter?</p> <p>19 A. My recollection is that he took an appeal,</p> <p>20 but I don't know which -- I don't recall which</p> <p>21 decision.</p> <p>22 Q. Do you remember whether that appeal</p> <p>23 resulted in a hearing?</p> <p>24 A. My recollection is that there was a</p> <p>25 hearing, yes.</p>	<p>55</p> <p>1 vice president of operations at ECFMG.</p> <p>2 Q. And would you agree with me that this</p> <p>3 letter is outlining to the gentleman by the name of</p> <p>4 Charles the results of the appeal hearing?</p> <p>5 A. Yes.</p> <p>6 Q. And do you see where this letter recites</p> <p>7 that the appeal was considered on July 10, 1996?</p> <p>8 It's in the middle paragraph.</p> <p>9 A. Yes.</p> <p>10 Q. In Washington, DC?</p> <p>11 A. Yes.</p> <p>12 Q. And would you agree with me that the</p> <p>13 decision of the review committee affirmed the</p> <p>14 decision invalidating one certificate and revoking</p> <p>15 the other, but limited the length of the revocation</p> <p>16 of certificate 04827002 to five years from July 10,</p> <p>17 1996, until July 10, 2001?</p> <p>18 A. Yes.</p> <p>19 Q. Thank you.</p> <p>20 (Exhibit No. 10 marked for</p> <p>21 identification.)</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. So Mr. Kelly, what is this document?</p> <p>24 A. It appears to be a photocopy of an</p> <p>25 application for USMLE exams.</p>
<p>54</p> <p>1 Q. And bear with me one second.</p> <p>2 Do you remember when that appeal hearing</p> <p>3 took place?</p> <p>4 A. No.</p> <p>5 Q. I'll come back to that later. Do you</p> <p>6 remember the outcome of the appeal?</p> <p>7 A. Yes.</p> <p>8 Q. What was the outcome?</p> <p>9 A. My recollection is that the appeal was</p> <p>10 denied.</p> <p>11 Q. Is that the same thing as saying the</p> <p>12 decision to invalidate one certificate and revoke</p> <p>13 the other was affirmed?</p> <p>14 A. Yes, but that there was a -- a change in I</p> <p>15 believe the length of time of the revocation of the</p> <p>16 one certificate, the specification of the date.</p> <p>17 (Exhibit No. 9 marked for</p> <p>18 identification.)</p> <p>19 BY MR. VETTORI:</p> <p>20 Q. It's a one-page letter, sir. If you take</p> <p>21 your time to read it, I'd appreciate it. Thank you,</p> <p>22 Mr. Kelly.</p> <p>23 A. (Complies.) Yes, I've read it.</p> <p>24 Q. So who is Marie Shafron?</p> <p>25 A. At that time Ann Marie Shafron was the</p>	<p>56</p> <p>1 Q. Which exams was he applying for?</p> <p>2 A. According to the application, the -- both</p> <p>3 the step one and the step two.</p> <p>4 Q. And what is the name of the applicant?</p> <p>5 A. On the application it's Femi Charles</p> <p>6 Igberase.</p> <p>7 Q. Do you see whether any Social Security</p> <p>8 number was provided?</p> <p>9 A. I see no Social Security number on the</p> <p>10 application.</p> <p>11 Q. And can you tell from the Bates stamp on</p> <p>12 the document when it was received by ECFMG?</p> <p>13 A. Yes.</p> <p>14 Q. When was it received?</p> <p>15 A. October 23, 2000.</p> <p>16 Q. Do you see the date of birth on the --</p> <p>17 towards the bottom of Page 1 of that application?</p> <p>18 A. Yes.</p> <p>19 Q. What is the date of birth?</p> <p>20 A. 17th day of the fourth month in 1962.</p> <p>21 Q. April 17?</p> <p>22 A. Yes.</p> <p>23 Q. Isn't that the same date as on the 1992</p> <p>24 application by Igberase?</p> <p>25 A. I would have to look.</p>

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15 (57 to 60)

<p>57</p> <p>1 Q. Please do. It's one of the early -- it's 2 the second exhibit, I think.</p> <p>3 A. Yes, it is.</p> <p>4 Q. So did you review this document, the 5 application, Exhibit 10, in preparation for this 6 deposition?</p> <p>7 A. I don't recall this specific -- no.</p> <p>8 Q. Am I correct that ECFMG pretty quickly 9 picked up on the fact this is the same Igberase 10 whose certificate had been revoked for five years 11 through and including July 10, 2001?</p> <p>12 A. My recollection is that at some point, I 13 don't know the time period, but I know subsequent to 14 this, there was an allegation that he provided false 15 information on his application, yes.</p> <p>16 Q. What do you mean by there was an 17 allegation?</p> <p>18 A. My recollection is subsequent to this we 19 alleged that he had engaged in irregular behavior.</p> <p>20 Q. Just to help answer this question, I'm 21 going to show you in a minute your letter dated 22 November 16, 2000, about this application.</p> <p>23 A. Okay.</p> <p>24 Q. So it appears to me that within less than 25 a month's time ECFMG has concluded that this is the</p>	<p>59</p> <p>1 applicant, Femi Charles Igberase, checked no to the 2 question, "Have you ever submitted an application to 3 ECFMG for an examination" -- I'm sorry. I talk 4 fast -- "even if you did not take the examination?" 5 Do you see where he checked the no?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And there is non identification 8 number included on that application, is there?</p> <p>9 A. I don't see one.</p> <p>10 Q. When you wrote to him, your Exhibit 11, 11 you used the ECFMG identification number 0482700-2, 12 didn't you?</p> <p>13 A. Yes.</p> <p>14 Q. And isn't it correct that in your letter 15 of November 16, 2000, Exhibit 11, you advised 16 Mr. Igberase that ECFMG requires an explanation in 17 writing within fifteen days of receiving this 18 letter?</p> <p>19 A. Yes.</p> <p>20 Q. So you addressed your letter to 21 Mr. Igberase?</p> <p>22 A. Dr. Igberase.</p> <p>23 Q. I'm sorry, Dr. Igberase. Thank you. I 24 apologize.</p> <p>25 Did you or did anyone at ECFMG ever</p>
<p>58</p> <p>1 same Igberase who had been told that his 2 certification was revoked through July 10, 2001. 3 Would you agree with me?</p> <p>4 MS. MCENROE: Objection.</p> <p>5 A. We made that allegation, yes.</p> <p>6 BY MR. VETTORI:</p> <p>7 Q. So do you have an independent recollection 8 as to how you came to that determination?</p> <p>9 A. No.</p> <p>10 Q. So do you remember me reading to you from 11 Charles's handwritten letter that for future records 12 he is going to use the name Igberase Oluwafemi 13 Charles? Do you recall that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. He didn't do that here, did he?</p> <p>16 A. No, he did not.</p> <p>17 (Exhibit No. 11 marked for 18 identification.)</p> <p>19 BY MR. VETTORI:</p> <p>20 Q. Let me know after you've read it, okay, 21 Mr. Kelly? Thank you.</p> <p>22 A. (Complies.) I finished reading it.</p> <p>23 Q. Okay. Can we go back to the prior 24 exhibit, No. 10? Put that in front of you, please.</p> <p>25 Would you agree with me that this</p>	<p>60</p> <p>1 receive an explanation?</p> <p>2 A. I don't recall.</p> <p>3 Q. So do you have a recollection, either 4 independently or as a result of the review you did 5 in your case, whether the ECFMG committee on medical 6 education credentials met to review this matter?</p> <p>7 A. I don't have an independent or I don't 8 have a recollection of that, no.</p> <p>9 (Exhibit No. 12 marked for 10 identification.)</p> <p>11 A. Yes, I've finished reviewing Exhibit 12.</p> <p>12 BY MR. VETTORI:</p> <p>13 Q. Okay. So in your first sentence you 14 indicate that the committee on -- ECFMG committee on 15 medical education credentials made -- a decision was 16 made by the ECFMG medical -- committee on medical 17 education credentials on April 18, 2001, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And your writing this letter is being 20 written to Dr. Igberase Oluwafemi Charles 21 referencing the identification number 0482700-2 22 advising him of the outcome of that -- I'm sorry -- 23 as to what that decision was?</p> <p>24 A. Yes.</p> <p>25 Q. And in this letter you recite many of the</p>

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16 (61 to 64)

<p>6</p> <p>1 events we've talked about today up to and including 2 the October 2000 application that was submitted, 3 correct? 4 A. Yes. 5 Q. And was it the decision of the ECFMG 6 committee to revoke his standard certificate for a 7 yet to be specified period of time? 8 A. To extend the length of the revocation, 9 yes. 10 Q. For an as yet unspecified period of 11 time? 12 A. Yes. 13 Q. And also to refer it to the USMLE 14 committee on irregular behavior, correct? 15 A. Yes. 16 Q. And you advised him that ECFMG was going 17 to review the matter again after the USMLE 18 committee's decision, correct? 19 A. Yes. 20 (Exhibit No. 13 marked for 21 identification.) 22 BY MR. VETTORI: 23 Q. One-page letter, would you read it, 24 please? 25 A. (Complies.) I finished reading it.</p>	<p>63</p> <p>1 somehow, yes. 2 Q. And he makes a reference to the Social 3 Security number not being applicable because the INS 4 was going to discontinue the number due to the 5 problems involving my, I think it means cousin, Dr. 6 Akoda, do you see that? 7 A. Yes. 8 Q. Akoda was not a name that was unfamiliar 9 to you at that time; isn't that correct? 10 MS. MCENROE: Objection to form. 11 A. I don't recall. 12 BY MR. VETTORI: 13 Q. As a result of the review of documents you 14 undertook to prepare for this deposition, you don't 15 recall that as of June of 2001 you were familiar 16 with the name Akoda? 17 MS. MCENROE: Objection. 18 A. I don't recall the dates. 19 (Exhibit No. 14 marked for 20 identification.) 21 MR. VETTORI: I had that same 22 question. 23 MS. MCENROE: Is there a question 24 pending? 25 MR. VETTORI: No. He had a quizzical</p>
<p>62</p> <p>1 Q. Okay. See if you agree with this. It 2 appears to me that this is a response letter from 3 Igherese to your November 16, 2000, letter. Would 4 you agree with me, even though he says 2001? 5 A. That is correct. 6 Q. And it's coming -- I'm sorry, I spoke over 7 you. I apologize. Did you finish your -- 8 A. Yes, I did. 9 Q. It appears to me that it's actually coming 10 too late, the committee has already made its 11 decision, correct? 12 A. This is after the committee had made its 13 decision, yes. 14 Q. So would you agree with me that in this 15 letter he is blaming his application on his 16 cousin? 17 MS. MCENROE: Objection to form. 18 A. He appears to be doing that, yes. 19 BY MR. VETTORI: 20 Q. And I think basically what he's saying is 21 the cousin filled out the wrong form? 22 A. Well, he says, "my childhood friend." 23 Q. Childhood friend, I'm sorry. The 24 childhood friend filled out the wrong form? 25 A. Filled out the wrong form incorrectly</p>	<p>64</p> <p>1 look on his face and I think I had the same one, but 2 I think I got the answer. 3 A. Okay. I finished reading. 4 BY MR. VETTORI: 5 Q. So this is a letter dated May 22, 2002, 6 this being Exhibit 14, correct? 7 A. Yes. 8 Q. And it's your letter? 9 A. It's from me, yes. 10 Q. This is approximately a year after your 11 previous letter, correct? 12 A. Yes. 13 Q. Can I offer what I think is the 14 explanation for that period of time and see if you 15 agree with me? 16 A. Yes. 17 Q. I think in an earlier letter you wrote 18 that you would reconsider the matter after the 19 decision by the USMLE and their remand to you. Do 20 you remember that? 21 A. Yes. 22 Q. Is that the reason for this letter being 23 almost a year later? 24 A. That would have been the process, yes. 25 Q. Thank you.</p>

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Conducted on August 20, 2019

17 (65 to 68)

<p>65</p> <p>1 (Exhibit No. 15 marked for 2 identification.) 3 A. I finished reviewing, yes. 4 BY MR. VETTORI: 5 Q. So what is Exhibit 15? 6 A. It's a photocopy of an application for 7 USLME examination. 8 Q. And this applicant checked no to the 9 question, "Have you ever submitted an application to 10 ECFMG for any examination even if you did not take 11 the examination," correct? 12 A. Correct. 13 Q. And would you agree with me that this 14 appears to be a different name than the Igberase and 15 Charles names that we've been discussing up until 16 now? 17 A. There is a difference, yes. 18 Q. So the last name is Oluwafemi, 19 O-L-U-W-A-F-E-M-I, correct? 20 A. On this application yes. 21 Q. First name Charles? 22 A. Yes. 23 Q. Middle initial, Ugberase, 24 U-G-B-E-R-A-E-S-E, correct? 25 A. Yes.</p>	<p>67</p> <p>1 received April 18th? 2 Q. March 18th. 3 A. March 18th, yes, that would have been. 4 MS. MCENROE: Do you want to take a 5 break? 6 MR. VETTORI: No. 7 (Exhibit No. 16 marked for 8 identification.) 9 BY MR. VETTORI: 10 Q. Mr. Kelly, Exhibit 16, which is Bates 11 number 0000267, appears to be a copy of something 12 that purports to be a diploma from the University of 13 Ibadan for a person named Charles Igberase 14 Oluwafemi. Do you see that? 15 A. Yes. 16 Q. Do you know whether this was submitted to 17 ECFMG as part of the application we just 18 discussed? 19 A. I do not know. 20 Q. You don't have any independent 21 recollection of this? 22 A. I do not. 23 Q. Do you have any recollection whether this 24 diploma was ever verified with the University of 25 Ibadan?</p>
<p>66</p> <p>1 Q. No Social Security number listed, 2 correct? 3 A. That is correct. 4 Q. Date of birth of March 1, 1967, correct? 5 A. Yes. 6 Q. There is no identification number on this, 7 is there? 8 A. An ECFMG USLME identification number, 9 no. 10 Q. And it appears to have been -- I know it's 11 hard to read, but I think some iteration of this 12 I've seen. I think it's March 18, 2002. It's 13 clearly -- 14 A. I see 18 and 2002. 15 Q. Okay, fair enough. And this application 16 is received by ECFMG in the period of time after 17 Igberase wrote you that letter, which was after the 18 decision had been made. In other words, it was an 19 untimely response to your earlier letter. Do you 20 follow me? 21 A. Yes. 22 Q. But before May of 2002 when you reviewed 23 this matter again upon remand for the USLME, 24 correct? This falls within that time period? 25 A. If it were in April. You're saying it was</p>	<p>68</p> <p>1 A. I have no knowledge. 2 Q. Do you have any knowledge whether any 3 information was inputted into the computer system 4 when this application was filed? 5 A. I have no knowledge. 6 Q. Do you have a recollection that ECFMG 7 determined within a short period of time after this 8 application was filed by this gentleman with the 9 last name Oluwafemi that it was the same person that 10 applied as Igberase and as Charles? 11 A. I don't recall that, no. 12 (Exhibit No. 17 marked for 13 identification.) 14 BY MR. VETTORI: 15 Q. March 18, 2002. 16 A. Okay, I finished. I read -- reviewed the 17 letter. 18 Q. So does this refresh your recollection 19 that ECFMG realized pretty quickly after the March 20 18, 2002, application that this person by the name 21 of Oluwafemi is really the same as the person 22 identified as Charles and as Igberase? 23 A. It doesn't refresh my recollection, but 24 the letter tells me that that is what happened. 25 Q. You wouldn't have written that if it</p>

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18 (69 to 72)

<p>69</p> <p>1 weren't accurate, would you?</p> <p>2 A. I would hope not.</p> <p>3 Q. Again, I know this may sound petty, but</p> <p>4 I'm doing this for a particular reason so humor me.</p> <p>5 We couldn't be sure on the</p> <p>6 application whether it was March 18, 2002, but there</p> <p>7 are several references in your letter to that date;</p> <p>8 am I correct?</p> <p>9 A. That is correct.</p> <p>10 Q. And you asked for an explanation from him,</p> <p>11 didn't you?</p> <p>12 A. Well, it references several letters that I</p> <p>13 haven't seen. And it's likely the explanation would</p> <p>14 have been -- request would have been in, for</p> <p>15 example, the May 22 letter.</p> <p>16 Q. Apparently I didn't ask a very good</p> <p>17 question. I apologize.</p> <p>18 You would agree with me that in this</p> <p>19 letter you told Oluwafemi that he should write ECFMG</p> <p>20 immediately to explain the reason why he indicated</p> <p>21 on his application received on March 18, 2002 that</p> <p>22 he had not previously submitted an application to</p> <p>23 ECFMG when in fact he had previously submitted</p> <p>24 applications and taken the examinations, correct?</p> <p>25 MS. MCENROE: Objection to form.</p>	<p>7</p> <p>1 identification.)</p> <p>2 MR. VETTORI: Off the record a</p> <p>3 minute.</p> <p>4 (Discussion off the record.)</p> <p>5 A. I've reviewed this document, Exhibit 18.</p> <p>6 BY MR. VETTORI:</p> <p>7 Q. Have you seen these before or do you</p> <p>8 recall seeing them before?</p> <p>9 A. Yes, I do.</p> <p>10 Q. As part of your preparation for this</p> <p>11 deposition?</p> <p>12 A. Yes.</p> <p>13 Q. This page 1, 4007 -- 4007 appears to me to</p> <p>14 be an ECFMG form; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. And if I understand from your prior</p> <p>17 testimony, the practice would have been for ECFMG to</p> <p>18 use this form to forward the diploma provided to it</p> <p>19 by the applicant; is that correct?</p> <p>20 A. That was the process, yes.</p> <p>21 Q. And so I'm just going by the sequence of</p> <p>22 numbers that they were produced to us. Immediately</p> <p>23 following 4007 is page 4008 and it's a diploma,</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p>70</p> <p>1 A. This letter does not ask for that. This</p> <p>2 is the decision of the credentials committee. This</p> <p>3 letter, this November 12, Exhibit 17 letter.</p> <p>4 BY MR. VETTORI:</p> <p>5 Q. I'm sorry, I apologize, I got out of order</p> <p>6 here.</p> <p>7 What is -- may I see the letter, the</p> <p>8 original?</p> <p>9 A. (Complies.)</p> <p>10 Q. Hold that letter. I apologize.</p> <p>11 MR. VETTORI: Can we take a quick</p> <p>12 break?</p> <p>13 MS. MCENROE: Sure.</p> <p>14 (Recess taken at 11:30 a.m.)</p> <p>15 (Back on the record at 11:35 a.m.)</p> <p>16 BY MR. VETTORI:</p> <p>17 Q. Did you -- do you remember whether in your</p> <p>18 review of documents in preparation for this</p> <p>19 deposition you saw any documents indicating that the</p> <p>20 person named Charles's diploma was verified by his</p> <p>21 medical school?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. I recall seeing a verification of his</p> <p>24 diploma, but I don't recall whose it was.</p> <p>25 (Exhibit No. 18 marked for</p>	<p>72</p> <p>1 Q. But it's not a diploma for somebody by the</p> <p>2 name of Charles, is it?</p> <p>3 MS. MCENROE: Objection to form.</p> <p>4 A. It says Charles right on it.</p> <p>5 BY MR. VETTORI:</p> <p>6 Q. What is the last name?</p> <p>7 A. It's Charles Oluwafemi Igberase.</p> <p>8 Q. It's not Igberase Oluwafemi Charles, is</p> <p>9 it?</p> <p>10 MS. MCENROE: Objection to form.</p> <p>11 A. The names are in a different order.</p> <p>12 BY MR. VETTORI:</p> <p>13 Q. Correct. And you were treating the person</p> <p>14 with the name Igberase Oluwafemi Charles as someone</p> <p>15 different from the person with the name Charles</p> <p>16 Oluwafemi Igberase, weren't you?</p> <p>17 MS. MCENROE: Objection to form. Are</p> <p>18 you asking --</p> <p>19 BY MR. VETTORI:</p> <p>20 Q. When I say "you," I mean ECFMG for</p> <p>21 purposes of its certification.</p> <p>22 A. I don't recall that.</p> <p>23 Q. Well, you assigned it a separate</p> <p>24 identification number to Igberase Oluwafemi Charles</p> <p>25 than you did to Charles Oluwafemi Igberase. We've</p>

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19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 already established that, Mr. Kelly.</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 BY MR. VETTORI:</p> <p>4 Q. Isn't that correct?</p> <p>5 A. If that is what we did, then this was a</p> <p>6 different applicant, yes.</p> <p>7 Q. Correct. Are you aware that this is the</p> <p>8 identical diploma submitted by the person with the</p> <p>9 name Charles Oluwafemi Igberase that you verified</p> <p>10 with the school?</p> <p>11 A. I'm not aware of that.</p> <p>12 Q. So again, we have a situation where the</p> <p>13 applicant's name is different than the name on the</p> <p>14 diploma, correct?</p> <p>15 MS. MCENROE: Objection.</p> <p>16 A. The name -- the sequence of names is</p> <p>17 different, yes.</p> <p>18 BY MR. VETTORI:</p> <p>19 Q. Correct. And is there any documentation</p> <p>20 to indicate to ECFMG an explanation for that?</p> <p>21 A. I see none.</p> <p>22 Q. So as I -- is it correct to say that ECFMG</p> <p>23 relied on a verification of a diploma for someone</p> <p>24 whose name is different than the applicant Igberase</p> <p>25 Oluwafemi Charles?</p>	<p style="text-align: right;">75</p> <p>1 assigned to him the number 0519573-0. ECFMG</p> <p>2 certified both of those individuals with different</p> <p>3 certification numbers.</p> <p>4 A. Yes.</p> <p>5 Q. And that's because, isn't it, Mr. Kelly,</p> <p>6 that ECFMG thought they were two different people?</p> <p>7 A. I don't know that I would have used that</p> <p>8 language, but they were two separate applicants,</p> <p>9 yes, yes, individuals, yes.</p> <p>10 Q. ECFMG would never assign two certification</p> <p>11 numbers and -- I'm sorry -- two identification</p> <p>12 numbers and actually certify with two different</p> <p>13 certification numbers the same person, would it?</p> <p>14 MS. MCENROE: Objection to form.</p> <p>15 A. Not knowingly.</p> <p>16 BY MR. VETTORI:</p> <p>17 Q. So again, ECFMG relied on a verification</p> <p>18 of a diploma for a person whose name is different</p> <p>19 than the name on the application. You would agree</p> <p>20 with that, wouldn't you?</p> <p>21 MS. MCENROE: Objection to form.</p> <p>22 A. The sequence of names on the diploma are</p> <p>23 different than the sequence of names on the</p> <p>24 application.</p> <p>25 BY MR. VETTORI:</p>
<p style="text-align: right;">74</p> <p>1 MS. MCENROE: Objection to form.</p> <p>2 A. What I can say is I, at this time in 1994,</p> <p>3 I do not believe ECFMG considered them, the name not</p> <p>4 to do -- to belong to this applicant. It was not</p> <p>5 uncommon for people from different cultures and</p> <p>6 certain countries to have their name, you know, in</p> <p>7 different sequences.</p> <p>8 BY MR. VETTORI:</p> <p>9 Q. Then why did you apply -- I'm sorry. Why</p> <p>10 did you assign different identification numbers to</p> <p>11 these two people?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. Yeah, you have me a little confused.</p> <p>14 My -- I don't know. I don't have the two records in</p> <p>15 front of me so I would have to see.</p> <p>16 Q. I understand, but let me tell you what the</p> <p>17 record that we developed here today shows. A</p> <p>18 gentleman by the name of Charles Oluwafemi Igberase,</p> <p>19 a name on a diploma, filed an application with ECFMG</p> <p>20 in 1992 and you assigned -- ECFMG assigned to him</p> <p>21 the O482700-2 number. That's established in the</p> <p>22 record.</p> <p>23 A. Yes.</p> <p>24 Q. A gentleman by the name of Igberase</p> <p>25 Oluwafemi Charles applied to ECFMG in 1994 and ECFMG</p>	<p style="text-align: right;">76</p> <p>1 Q. And do you see on the first page at the</p> <p>2 top where those two certificate numbers appear, one</p> <p>3 of which is crossed out?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know why that is? Do you have any</p> <p>6 explanation for that?</p> <p>7 A. I can -- I know what the process was.</p> <p>8 Q. What was the process?</p> <p>9 A. Okay. At some point after it was</p> <p>10 determined that both numbers belonged to the same</p> <p>11 individual, all the records that had the second</p> <p>12 number, the 05195730, would have been marked with</p> <p>13 the original identification number 04827002.</p> <p>14 Q. So you -- ECFMG at some point -- we know</p> <p>15 from the record we established, at some point</p> <p>16 determined that they're one and the same person?</p> <p>17 A. That's correct.</p> <p>18 Q. Did it raise any red flags at ECFMG that</p> <p>19 the University of Ibadan would verify a diploma for</p> <p>20 someone named Charles Oluwafemi Igberase when ECFMG</p> <p>21 was requesting verification of a diploma for</p> <p>22 Igberase Oluwafemi Charles?</p> <p>23 MS. MCENROE: Objection to form.</p> <p>24 A. At that time it was not uncommon for names</p> <p>25 to be in a different sequence so it would not have</p>

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20 (77 to 80)

<p>77</p> <p>1 raised a flag.</p> <p>2 BY MR. VETTORI:</p> <p>3 Q. So why then when Igberase Oluwafemi</p> <p>4 Charles applied, didn't ECFMG question whether it</p> <p>5 was just a rearrangement of names or not?</p> <p>6 MS. MCENROE: Objection to form.</p> <p>7 A. I would have to go back to the application</p> <p>8 and look.</p> <p>9 BY MR. VETTORI:</p> <p>10 Q. Well, we know from one of your letters</p> <p>11 that you said the reason why you didn't make that</p> <p>12 determination when the application, the second</p> <p>13 application was filed, that is the one by</p> <p>14 Mr. Charles or Dr. Charles was because his date of</p> <p>15 birth was different and the order of his name was</p> <p>16 different, correct? You remember that letter?</p> <p>17 A. Yes, yes, yes.</p> <p>18 Q. So you thought they were two different</p> <p>19 people, even though the names were similar, they</p> <p>20 were in a different arrangement; isn't that</p> <p>21 correct?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. That would be correct, yes.</p> <p>24 BY MR. VETTORI:</p> <p>25 Q. I'm just curious why there's not a diploma</p>	<p>79</p> <p>1 stamp, we established from some other letters that</p> <p>2 it clearly was March 18, 2002; do you agree?</p> <p>3 A. Yes.</p> <p>4 Q. I think my question to you was, it appears</p> <p>5 to me -- I'm sorry.</p> <p>6 Would you agree with me that ECFMG</p> <p>7 realized within a short period of time after this</p> <p>8 March 18, 2002 application was filed that this</p> <p>9 person using the name Charles Igberase Oluwafemi was</p> <p>10 really the person certified under number</p> <p>11 0482700-2?</p> <p>12 A. Yes.</p> <p>13 Q. And so you wrote a letter on July 22,</p> <p>14 2002, to someone by the name of Charles Igberase</p> <p>15 Oluwafemi, correct?</p> <p>16 A. Yes.</p> <p>17 Q. His application had not referenced any</p> <p>18 identification or certification number, had it?</p> <p>19 A. Yes.</p> <p>20 Q. Yes, it had not?</p> <p>21 A. That is correct.</p> <p>22 Q. But you referenced the 0482700-2</p> <p>23 certification number, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And that was the one assigned to Igberase</p>
<p>78</p> <p>1 with the names ordered Igberase Oluwafemi Charles?</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 Asked and answered.</p> <p>4 BY MR. VETTORI:</p> <p>5 Q. Can you tell me why?</p> <p>6 A. I don't.</p> <p>7 Q. But that never raised a question with</p> <p>8 ECFMG?</p> <p>9 MS. MCENROE: Objection to form.</p> <p>10 Asked and answered.</p> <p>11 A. I couldn't answer that.</p> <p>12 (Exhibit No. 19 marked for</p> <p>13 identification.)</p> <p>14 A. I completed reviewing this document.</p> <p>15 BY MR. VETTORI:</p> <p>16 Q. Okay. Let me see if I can put this back</p> <p>17 into the context where I was reading from a letter I</p> <p>18 hadn't shown to you.</p> <p>19 So if you recall, Mr. Kelly, someone by</p> <p>20 the name of Charles Igberase Oluwafemi filed an</p> <p>21 application with ECFMG to take certain medical</p> <p>22 examinations on March 18, 2002. We've established</p> <p>23 that.</p> <p>24 A. Yes.</p> <p>25 Q. And although we couldn't read the date</p>	<p>80</p> <p>1 who had applied in 1992, correct? I think it's</p> <p>2 Exhibit 2.</p> <p>3 A. Yes.</p> <p>4 Q. So would I be incorrect in assuming that</p> <p>5 that meant that ECFMG had concluded that the person</p> <p>6 holding certificate 0482700-2 and this individual by</p> <p>7 the name of Charles Igberase Oluwafemi were one and</p> <p>8 the same?</p> <p>9 A. That was our suspicion, yes.</p> <p>10 Q. Again, in your letter you recite the</p> <p>11 history of ECFMG's involvement with Igberase and</p> <p>12 Charles ad nauseam. I'm sorry, that wasn't a</p> <p>13 criticism. You recite all that again?</p> <p>14 A. There's a history, yes.</p> <p>15 Q. Thank you. And then you discussed the</p> <p>16 application filed by this Charles Igberase Oluwafemi</p> <p>17 on March 18, 2002, and you tell him to write ECFMG</p> <p>18 immediately to explain the reason why he indicated</p> <p>19 on his application received on March 18, 2002, that</p> <p>20 he had not previously submitted an application to</p> <p>21 ECFMG when, in fact, he had previously submitted an</p> <p>22 application and taken examinations, correct?</p> <p>23 A. Yes.</p> <p>24 Q. I apologize for the confusion, sir. So</p> <p>25 I'm sorry. Can we pull the November 12th letter</p>

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21 (81 to 84)

<p>8</p> <p>1 now?</p> <p>2 A. (Complies.)</p> <p>3 MS. MCENROE: Exhibit 17.</p> <p>4 MR. VETTORI: Thank you.</p> <p>5 BY MR. VETTORI:</p> <p>6 Q. This is your letter?</p> <p>7 A. Yes.</p> <p>8 Q. It's Bates 0003471-3472; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And is this advising a gentleman with the</p> <p>12 last name Charles that he's barred permanently from</p> <p>13 admission to all ECFMG examinations and from ECFMG</p> <p>14 certification?</p> <p>15 A. Yes.</p> <p>16 Q. Thank you.</p> <p>17 (Exhibit No. 20 marked for</p> <p>18 identification.)</p> <p>19 BY MR. VETTORI:</p> <p>20 Q. Mr. Kelly, I'm going to give an</p> <p>21 opportunity to review it as thoroughly as you want,</p> <p>22 but just for the record let's establish that this</p> <p>23 letter is Bates number 0000348 through 351. It's a</p> <p>24 letter dated June 17, 2003, to Charles Igberase</p> <p>25 Oluwafemi referencing the number 0482700-2 from</p>	<p>83</p> <p>1 from the medical licensing authority, and after full</p> <p>2 disclosure to such authority of events that led to</p> <p>3 the bar.</p> <p>4 Q. Thank you. Do you have any personal</p> <p>5 knowledge or is your memory refreshed at all with</p> <p>6 respect to whether anybody by the name of Igberase</p> <p>7 or Charles ever received a medical license in</p> <p>8 Maryland?</p> <p>9 A. I have no knowledge of that.</p> <p>10 MR. VETTORI: This would be a good</p> <p>11 time to take a break.</p> <p>12 MS. MCENROE: Great.</p> <p>13 (Recess taken at 12:00 p.m.)</p> <p>14 (Back on the record at 12:25 p.m.)</p> <p>15 BY MR. VETTORI:</p> <p>16 Q. Just one clean-up question with respect to</p> <p>17 the subject we've been talking about.</p> <p>18 I know that when we looked at Exhibit 20,</p> <p>19 the last letter you have there, the USMLE discusses</p> <p>20 the fact that any USMLE transcripts or any third</p> <p>21 party submitted to you or any third party will</p> <p>22 include this annotation, in other words, the action</p> <p>23 that they have taken.</p> <p>24 But my question is: Would it have been</p> <p>25 ECFMG's practice in this June 2003 period to notify</p>
<p>82</p> <p>1 Susan Deitch, Office of the USLME secretary, with a</p> <p>2 copy to ECFMG. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Do you have any recollection, either</p> <p>5 independently or from your review of records in this</p> <p>6 case, of having seen this letter?</p> <p>7 A. Yes.</p> <p>8 Q. And now take as much time as you want to</p> <p>9 look at it or whenever you're ready my question is</p> <p>10 going to be: What was the gist of this letter?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 A. The gist of this letter is that the USMLE</p> <p>13 had received the information from ECFMG's finding of</p> <p>14 irregular behavior and specifically July 22, 2002</p> <p>15 letter Exhibit 19. They had reviewed that material</p> <p>16 and separately determined that the individual had</p> <p>17 engaged in irregular behavior and took certain</p> <p>18 actions.</p> <p>19 BY MR. VETTORI:</p> <p>20 Q. What actions did they take?</p> <p>21 A. They annotated the USMLE record and said</p> <p>22 there was an annotation that he engaged in irregular</p> <p>23 behavior and barred him from taking future</p> <p>24 administrations of USMLE, suspension of the bar to</p> <p>25 be considered at such time as a request is received</p>	<p>84</p> <p>1 any organizations or regulatory authorities about</p> <p>2 the action with respect to Igberase and Charles?</p> <p>3 A. All findings of irregular behavior were</p> <p>4 reported to a host of different organizations and</p> <p>5 agencies.</p> <p>6 Q. So do you remember seeing any documents to</p> <p>7 that effect in your review in preparation for this</p> <p>8 deposition?</p> <p>9 A. I remember seeing a notification.</p> <p>10 Q. With respect to Igberase and --</p> <p>11 A. I don't know who it was for, but I think</p> <p>12 it's for --</p> <p>13 Q. I'm getting way ahead of myself. So you</p> <p>14 weren't with ECFMG when the individual with the last</p> <p>15 name Akoda pled guilty to certain criminal offenses,</p> <p>16 correct?</p> <p>17 A. I believe I was not, yeah.</p> <p>18 Q. Well, that was October 2016. I think you</p> <p>19 told us you had left in 2015?</p> <p>20 A. That is correct.</p> <p>21 Q. And so you weren't with ECFMG in December</p> <p>22 of 2016 when Karen Corrada -- do you know her?</p> <p>23 A. Yes.</p> <p>24 Q. Was she working at ECFMG when you were</p> <p>25 there?</p>

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22 (85 to 88)

<p>85</p> <p>1 A. Yes.</p> <p>2 Q. So you weren't at ECFMG in December of</p> <p>3 2016 when Karen Corrada wrote to this gentleman by</p> <p>4 the name of Akoda and indicated that the report of</p> <p>5 the revocation of the standard ECFMG certificate --</p> <p>6 I'm sorry. That ECFMG would report the revocation</p> <p>7 of his ECFMG certificate to the Federation of State</p> <p>8 Medical Boards, US State and International Medical</p> <p>9 Licensing Authorities, the Records of Graduate</p> <p>10 Medical Education Programs, and to any other</p> <p>11 organization or individual who in the judgment of</p> <p>12 ECFMG has a legitimate interest in such</p> <p>13 information?</p> <p>14 A. I was not there.</p> <p>15 Q. Do you know whether the organizations or</p> <p>16 bodies that I just referenced in her letter are the</p> <p>17 ones you were talking about with respect to</p> <p>18 notification that would have been --</p> <p>19 A. That was our procedure.</p> <p>20 MS. MCENROE: Let him finish.</p> <p>21 MR. VETTORI: He's good. That's the</p> <p>22 first time it happened.</p> <p>23 BY MR. VETTORI:</p> <p>24 Q. Those are the organizations that would</p> <p>25 have received notice about Igberase?</p>	<p>87</p> <p>1 look at it for a moment and then I'm going to ask</p> <p>2 you a question about it.</p> <p>3 A. (Complies.) Okay.</p> <p>4 Q. So this is dated March 1, 2017, and I</p> <p>5 think we've already agreed that you weren't with</p> <p>6 ECFMG at the time?</p> <p>7 A. That's correct.</p> <p>8 Q. So you don't know what information is</p> <p>9 contained on the other pages of this document,</p> <p>10 obviously?</p> <p>11 A. That is correct.</p> <p>12 Q. Have you even seen this document before?</p> <p>13 A. No.</p> <p>14 MR. VETTORI: Let's mark it as 23</p> <p>15 anyway.</p> <p>16 (Exhibit No. 23 marked for</p> <p>17 identification.)</p> <p>18 BY MR. VETTORI:</p> <p>19 Q. So tell us what Exhibit 23 is.</p> <p>20 A. It is a photocopy of an application for a</p> <p>21 USMLE examination.</p> <p>22 Q. By whom?</p> <p>23 A. The name on the application is John Nosa</p> <p>24 Akoda.</p> <p>25 Q. A-K-O-D-A. It appears to me that it's</p>
<p>86</p> <p>1 A. Yes.</p> <p>2 Q. But again, do you remember any notices</p> <p>3 other than the one I just referenced in your</p> <p>4 review?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 A. No, I don't recall.</p> <p>7 BY MR. VETTORI:</p> <p>8 Q. So let me ask it a little different way.</p> <p>9 Did you review this December 19, 2016 letter that</p> <p>10 Karen Corrada wrote?</p> <p>11 A. No.</p> <p>12 MS. MCENROE: Can you mark that or do</p> <p>13 you want --</p> <p>14 MR. VETTORI: I can, if you want me</p> <p>15 to.</p> <p>16 MS. MCENROE: Just for purpose of the</p> <p>17 record of what it was he did not review.</p> <p>18 (Exhibit No. 21 marked for</p> <p>19 identification.)</p> <p>20 (Exhibit No. 22 marked for</p> <p>21 identification.)</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. So Mr. Kelly, before you look at it I'm</p> <p>24 telling you this is an incomplete document. This is</p> <p>25 just page 1 of a multiple page document. Take a</p>	<p>88</p> <p>1 dated January 3, 1996. Can you confirm that?</p> <p>2 A. That appears to be the receipt date,</p> <p>3 yes.</p> <p>4 Q. Right. Does it list a Social Security</p> <p>5 number?</p> <p>6 A. There is none listed on there.</p> <p>7 Q. What is the date of birth? Second page.</p> <p>8 A. January 1, 1959.</p> <p>9 Q. And does this applicant, John Nosa Akoda,</p> <p>10 indicate what medical school he attended?</p> <p>11 A. Yes.</p> <p>12 Q. Which one?</p> <p>13 A. University of Benin, Nigeria.</p> <p>14 Q. Does he indicate when he graduated?</p> <p>15 A. He does not list the degree date. He</p> <p>16 lists his attendance dates.</p> <p>17 Q. What are the attendance dates?</p> <p>18 A. October '81 to October '87.</p> <p>19 Q. If you look at Bates page 40705, which I</p> <p>20 think is the third page of the application, part C.</p> <p>21 A. Yes.</p> <p>22 Q. There is a photograph attached or there is</p> <p>23 a photograph on that page; is there not?</p> <p>24 A. It appears to be a photograph.</p> <p>25 Q. Isn't that a requirement of all</p>

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23 (89 to 92)

<p>89</p> <p>1 applications, that they attach a photograph?</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 A. That is, yes.</p> <p>4 BY MR. VETTORI:</p> <p>5 Q. And doesn't that photograph have to be</p> <p>6 verified by the dean of the medical school?</p> <p>7 MS. MCENROE: Objection to form.</p> <p>8 A. It does not have to be.</p> <p>9 BY MR. VETTORI:</p> <p>10 Q. What was the procedure in 1996 at ECFMG</p> <p>11 with respect to the verification of a photograph on</p> <p>12 an application?</p> <p>13 A. I don't recall.</p> <p>14 Q. So in section B1, down towards the bottom,</p> <p>15 the form says, "Explain in the space below why the</p> <p>16 application could not be signed in the presence of</p> <p>17 your medical school dean, vice dean, or register --</p> <p>18 any registrar. Any explanation must be acceptable</p> <p>19 to ECFMG and must be provided each time you submit</p> <p>20 an application to ECFMG."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And the handwritten answer was "because</p> <p>24 the postal system to Nigeria could not be guaranteed</p> <p>25 within the available time." Did I read that</p>	<p>9</p> <p>1 A. I believe he has it on the wrong line, but</p> <p>2 that appears to be what he meant.</p> <p>3 Q. And I think this is dated August 30, 1996.</p> <p>4 Can you verify or deny that?</p> <p>5 A. The received date appears to be August 30,</p> <p>6 1996, yes.</p> <p>7 Q. And on this application he indicates that</p> <p>8 he has applied previously for examination,</p> <p>9 correct?</p> <p>10 A. He has checked the yes box, yes.</p> <p>11 Q. Is this identification number the same as</p> <p>12 his identification number on Exhibit 23?</p> <p>13 A. I can't say for the last digit, but it</p> <p>14 appears to be, yes.</p> <p>15 Q. Again, no Social Security number,</p> <p>16 correct?</p> <p>17 A. None listed, correct.</p> <p>18 Q. The rest of the information is the same?</p> <p>19 A. I would have to compare them.</p> <p>20 Q. Do a quick comparison as of the dates of</p> <p>21 attendance and medical school, the name of the</p> <p>22 medical school, his birth date.</p> <p>23 MS. MCENROE: Can we do them one at a</p> <p>24 time because some of the things are different, his</p> <p>25 address is different. What is it that you want him</p>
<p>90</p> <p>1 correctly?</p> <p>2 A. That's what I read as well.</p> <p>3 Q. Okay. So when did ECFMG require</p> <p>4 verification of the photo and when did it not in</p> <p>5 1996, if you recall?</p> <p>6 MS. MCENROE: Objection to form.</p> <p>7 A. I don't recall.</p> <p>8 BY MR. VETTORI:</p> <p>9 Q. Also on this application John Nosa Akoda</p> <p>10 indicates that he's never submitted an application</p> <p>11 to ECFMG for any examination, correct?</p> <p>12 A. That is correct.</p> <p>13 MR. VETTORI: What number was this?</p> <p>14 MS. MCENROE: 23.</p> <p>15 MR. VETTORI: Thank you.</p> <p>16 (Exhibit No. 24 marked for</p> <p>17 identification.)</p> <p>18 A. Okay.</p> <p>19 BY MR. VETTORI:</p> <p>20 Q. So what is Exhibit 24?</p> <p>21 A. It is a photocopy of an application for</p> <p>22 USMLE.</p> <p>23 Q. By the same John Nosa Akoda?</p> <p>24 A. John Akoda, yes.</p> <p>25 Q. Doesn't it say the middle name is Nosa?</p>	<p>92</p> <p>1 to compare?</p> <p>2 BY MR. VETTORI:</p> <p>3 Q. So is this the same applicant that applied</p> <p>4 in Exhibit 23?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 BY MR. VETTORI:</p> <p>7 Q. If you know.</p> <p>8 A. It appears to be, yes.</p> <p>9 Q. And if you look at page 000645, the last</p> <p>10 page there is a -- I'm sorry, the next to last page,</p> <p>11 there is a photograph?</p> <p>12 A. Yes.</p> <p>13 Q. And does that have a -- some kind of a</p> <p>14 stamp or symbol of the dean of college in</p> <p>15 medicine?</p> <p>16 A. It appears to be, yes.</p> <p>17 Q. And are you familiar with that kind of a</p> <p>18 stamp or were you then?</p> <p>19 A. I don't recall.</p> <p>20 Q. So what, if anything, was ECFMG's practice</p> <p>21 in 1996 to verify that the person in effect stamping</p> <p>22 this picture is, in fact, an authorized</p> <p>23 representative of the university?</p> <p>24 A. In 1996 I don't recall.</p> <p>25 Q. Do you recall what the procedure was at</p>

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24 (93 to 96)

<p>93</p> <p>1 any time while you were employed by ECFMG?</p> <p>2 A. Yes.</p> <p>3 Q. What?</p> <p>4 A. You would check the name and the seal</p> <p>5 against samples in the reference library, in the</p> <p>6 credential reference library.</p> <p>7 Q. But you don't know when that was?</p> <p>8 A. No.</p> <p>9 Q. You don't know if that reference library</p> <p>10 was utilized in the 1996 time period?</p> <p>11 A. I don't recall.</p> <p>12 Q. Does it appear to you that the dates of</p> <p>13 attendance at the University of Benin are the same</p> <p>14 on Exhibits 24 and 23?</p> <p>15 A. Yes.</p> <p>16 Q. From your review of the many records in</p> <p>17 preparation for this deposition or from your</p> <p>18 independent personal knowledge, do you know why this</p> <p>19 occurred, the individual applied once, didn't take</p> <p>20 any exams and then applied again?</p> <p>21 A. No, I don't know.</p> <p>22 Q. You don't remember?</p> <p>23 MS. MCENROE: I'm just going to -- he</p> <p>24 stated he didn't remember, but I think testified he</p> <p>25 didn't know.</p>	<p>95</p> <p>1 A. Yes.</p> <p>2 Q. And the middle name on the diploma is</p> <p>3 Enosekhare, E-N-O-S-E-K-H-A-R-E, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And Akoda is the same on both, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know if ECFMG verified this</p> <p>8 diploma?</p> <p>9 A. I do not know.</p> <p>10 Q. Do you know whether John Nosa Akoda was</p> <p>11 ever certified by ECFMG?</p> <p>12 A. My recollection is that he was.</p> <p>13 MR. VETTORI: Off the record.</p> <p>14 (Discussion off the record.)</p> <p>15 (Exhibit No. 26 marked for</p> <p>16 identification.)</p> <p>17 BY MR. VETTORI:</p> <p>18 Q. So Mr. Kelly, what is this document?</p> <p>19 A. It -- to me it's got a photocopy of an</p> <p>20 ECFMG certificate.</p> <p>21 Q. Are you familiar with this form of</p> <p>22 document?</p> <p>23 A. Yes.</p> <p>24 Q. So would I be correct in stating that when</p> <p>25 an applicant is certified, they receive one of</p>
<p>94</p> <p>1 A. I don't know why.</p> <p>2 BY MR. VETTORI:</p> <p>3 Q. Did you ever know why?</p> <p>4 A. I don't recall.</p> <p>5 (Exhibit No. 25 marked for</p> <p>6 identification.)</p> <p>7 BY MR. VETTORI:</p> <p>8 Q. Can you tell us what Exhibit 25 is?</p> <p>9 A. It appears to be a photocopy of a medical</p> <p>10 diploma.</p> <p>11 Q. For whom?</p> <p>12 A. The name on it is Johnbull, middle name,</p> <p>13 I'll spell it, E-N-O-S-A-K-H-A-R-E, last name,</p> <p>14 Akoda.</p> <p>15 Q. And would you agree with me that that name</p> <p>16 is different than the name on Exhibit 24, the</p> <p>17 application to take certain exams?</p> <p>18 A. There is a difference in the name, yes.</p> <p>19 Q. So the application is John, first name,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. The diploma is Johnbull, correct?</p> <p>23 A. Yes.</p> <p>24 Q. The middle name on the application is</p> <p>25 Nosa, correct?</p>	<p>96</p> <p>1 those -- a document like this?</p> <p>2 A. Yes.</p> <p>3 Q. So should there be somewhere in the files</p> <p>4 of ECFMG a copy of a similar certificate for</p> <p>5 somebody by the name of Igberase and somebody by the</p> <p>6 name of Charles, if you know?</p> <p>7 MS. MCENROE: Objection.</p> <p>8 A. It was not our procedure to have physical</p> <p>9 copies of certificates, just a record of when it was</p> <p>10 issued. We didn't keep actual copies.</p> <p>11 MR. VETTORI: So off the record.</p> <p>12 (Discussion off the record.)</p> <p>13 BY MR. VETTORI:</p> <p>14 Q. So is it your testimony that when ECFMG --</p> <p>15 the practice of ECFMG was to issue a certificate</p> <p>16 like Exhibit 26 to the certified IMG, but not keep a</p> <p>17 copy of that certificate?</p> <p>18 A. That is correct.</p> <p>19 Q. I think you added something that I sort of</p> <p>20 didn't pay any attention to and I should have.</p> <p>21 You would have made some notation in</p> <p>22 your records that the person had been certified?</p> <p>23 A. In the person's ECFMG record would be an</p> <p>24 indication when this certificate was issued and that</p> <p>25 they were certified.</p>

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25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 Q. When you say, "in the record," you mean as 2 part of their computer program, profile, whatever 3 you call it? 4 A. Yes, and if I can just interject, at this 5 time perhaps also in their paper file. We keep 6 paper file paper records. 7 (Exhibit No. 27 marked for 8 identification.) 9 BY MR. VETTORI: 10 Q. Let me know when you're finished reading 11 it. 12 A. I'm finished reading it. 13 Q. So what is this document? 14 A. I know what I believe it to be. This is a 15 photocopy of a section of one of the ECFMG internal 16 software applications listing various components of 17 an individual's record with ECFMG. 18 Q. Part of a computer program? 19 A. Yes, it's a printout of one of the 20 screens. 21 Q. So if you wanted to know when someone's 22 certificate was issued, you would go into your 23 computer program under his name or his 24 identification number or hers and punch in 25 certificate information?</p>	<p style="text-align: right;">99</p> <p>1 BY MR. VETTORI: 2 Q. I'm going to ask you about that later 3 again, but thank you very much. 4 (Exhibit No. 28 marked for 5 identification.) 6 A. I reviewed it. 7 BY MR. VETTORI: 8 Q. This is another copy of a portion of the 9 computer program relating to this guy Akoda? 10 A. I'm looking for the name. I don't see the 11 name of the candidate on it, but it's a screen, it's 12 a print of a screen print from one of these ECFMG 13 programs. I don't see a name. I can barely make 14 out an ID number, though. 15 Q. I can tell you, if I'm reading this 16 accurately, the user ID number is the same on the 17 previous exhibit. 18 A. What do you mean user ID? 19 MS. MCENROE: The USLME. 20 A. The USMLE ID? 21 BY MR. VETTORI: 22 Q. USMLE ID, the 553 -- 23 A. 055332585? 24 Q. Correct. 25 A. So this would be the exam history.</p>
<p style="text-align: right;">98</p> <p>1 A. You can access it a number of different 2 ways. 3 Q. But this document confirms that Akoda's 4 certificate was issued August 18, 1987, correct? 5 A. It does have that issue date. Yes. 6 Q. Okay. 7 A. 1997. 8 Q. And I think I know this answer, but it 9 will save me asking questions later. So there is a 10 section on here that says English pass date 11 8/28/1996. Do you see that? 12 A. Yes. 13 Q. Valid through 9/1/1998. What does that 14 mean? 15 A. At this time a passing performance on the 16 English test had a limited period of time of 17 validity during which time the holder of the 18 certificate had to start a residency program. And 19 if he or she then started the residency program and 20 provided documentation, it would -- that expiration 21 date would be removed and it becomes valid 22 indefinitely. If they did not, they were required 23 to take the English test. 24 MR. VETTORI: Off the record. 25 (Discussion off the record.)</p>	<p style="text-align: right;">00</p> <p>1 Q. So it's titled -- I'm sorry. The heading 2 on the top of this form is ECFMG applicant 3 information management system V2. What is it? Is 4 that the computer program that's used? 5 A. Yes. 6 Q. That's like the universal program for all 7 of these? 8 A. It's one of the programs. 9 Q. And what this document reflects is when 10 the individual named Akoda passed step one, the 11 English exam, and step two, correct? 12 A. I don't know when this was -- this screen 13 print was -- you know, when the screen was done, but 14 at the time it was done, that would have been -- it 15 looks like they checked the entire exam history. It 16 would show, yes. 17 (Exhibit No. 29 marked for 18 identification.) 19 A. Okay, I read it. 20 BY MR. VETTORI: 21 Q. This is another screen shot from the same 22 program? 23 A. I actually think it's a different program, 24 but it's an ECFMG program. This one I think is the 25 verification information processing of electronic</p>

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26 (101 to 104)

<p>0</p> <p>1 requests program.</p> <p>2 Q. What is VIPER?</p> <p>3 A. The acronym for Verification Information</p> <p>4 Processing of Electronic Requests.</p> <p>5 Q. What is it used for?</p> <p>6 A. At that time it was used to track requests</p> <p>7 from outside organizations and agencies of the ECFMG</p> <p>8 status using the certification status of</p> <p>9 individuals.</p> <p>10 Q. Do you know what outside organization was</p> <p>11 seeking such information at that time?</p> <p>12 A. According to this information, the request</p> <p>13 was sent to, so I -- you know, a presumption is</p> <p>14 that's the person who requested it was the State</p> <p>15 Board of Medical Examiners of New Jersey.</p> <p>16 Q. Is there any way to tell from this</p> <p>17 printout the date that that information was sent?</p> <p>18 A. There is a print date, which I'm having a</p> <p>19 hard time reading, but it is the third column under</p> <p>20 record status.</p> <p>21 Q. Oh, I see print date, 01 -- it looks like</p> <p>22 1999. Do you see the date 1999 in there?</p> <p>23 A. It could be. You know, I'm under oath so</p> <p>24 I'm not going to say.</p> <p>25 Q. I will let the younger eyes in here tell</p>	<p>03</p> <p>1 is.</p> <p>2 Q. In the heading column, the next one</p> <p>3 following update dates it says "TB." Do you know</p> <p>4 what that stands for?</p> <p>5 A. My recollection is whether there was a</p> <p>6 determination of irregular behavior.</p> <p>7 Q. What does TA stand for?</p> <p>8 A. Whether test accommodations were</p> <p>9 administered.</p> <p>10 Q. Thank you. So you don't have to look at</p> <p>11 these unless you don't trust me, but the two</p> <p>12 applications for Akoda that we identified a moment</p> <p>13 ago didn't include Social Security numbers?</p> <p>14 A. That's correct, yes.</p> <p>15 Q. So at some point in time he provided a</p> <p>16 Social Security number to ECFMG. Do you remember</p> <p>17 that?</p> <p>18 A. I don't remember him providing it, the</p> <p>19 Social Security number.</p> <p>20 (Exhibit No. 31 marked for</p> <p>21 identification.)</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. Mr. Kelly, before you read the letter, let</p> <p>24 me just make a statement. I'm going to come back to</p> <p>25 this letter later and ask you some questions about</p>
<p>02</p> <p>1 us.</p> <p>2 Anybody want to volunteer anything?</p> <p>3 MR. CERYES: Nope.</p> <p>4 MR. VETTORI: All right. Let's move</p> <p>5 on.</p> <p>6 (Exhibit No. 30 marked for</p> <p>7 identification.)</p> <p>8 BY MR. VETTORI:</p> <p>9 Q. Again, what is this document?</p> <p>10 A. Okay. This is a photocopy of a screen</p> <p>11 print from one of the ECFMG programs.</p> <p>12 Q. What is an AVTS report?</p> <p>13 A. I don't recall.</p> <p>14 Q. In any event, there is no information</p> <p>15 entered in that field, is there?</p> <p>16 A. I don't see any.</p> <p>17 Q. Then there is a portion that says, "Exam</p> <p>18 history, all exams?"</p> <p>19 A. I see that, yes.</p> <p>20 Q. It again talks about steps one, two,</p> <p>21 English, and step one that we've seen on a previous</p> <p>22 form, correct?</p> <p>23 A. Yes.</p> <p>24 Q. What's the update column mean?</p> <p>25 A. I don't know. I don't recall what that</p>	<p>04</p> <p>1 it. The only purpose in my showing it to you now is</p> <p>2 with respect to the question I asked about Social</p> <p>3 Security number, okay?</p> <p>4 Let me just confirm. This is an August</p> <p>5 22, 2000, letter from Stephen Seeling, J.D., vice</p> <p>6 president of operations of ECFMG to James McCorkel,</p> <p>7 Ph.D. at Jersey Shore Medical Center. Can we agree</p> <p>8 on that?</p> <p>9 A. Yes.</p> <p>10 Q. If you will take a look at the second full</p> <p>11 paragraph of that letter, the last sentence, read it</p> <p>12 aloud, please.</p> <p>13 A. "The Social Security number he provided</p> <p>14 ECFMG in 1998 is," and then part of it is --</p> <p>15 Q. And my letter says 9065?</p> <p>16 A. Then it has 9065.</p> <p>17 Q. You saw this letter contemporaneously with</p> <p>18 it being written, didn't you?</p> <p>19 A. Frankly, I wrote the letter.</p> <p>20 Q. I was going to ask you that later because</p> <p>21 I thought you did, but thank you.</p> <p>22 We know because you said so, in 1998 he</p> <p>23 provided a Social Security number. Can you tell us</p> <p>24 why he did that? What was the reason for supplying</p> <p>25 it then?</p>

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27 (105 to 108)

05	<p>1 MS. MCENROE: Objection.</p> <p>2 A. I don't recall.</p> <p>3 BY MR. VETTORI:</p> <p>4 Q. You don't recall?</p> <p>5 A. I don't.</p> <p>6 MS. MCENROE: Again, he said I don't</p> <p>7 recall or I don't know, he said I don't recall. I</p> <p>8 want to make sure the record is straight what the</p> <p>9 witness said.</p> <p>10 BY MR. VETTORI:</p> <p>11 Q. Is the answer I don't know because I don't</p> <p>12 recall?</p> <p>13 A. I do not know the reason why he provided</p> <p>14 this number.</p> <p>15 Q. Do you know if at the time he did so you</p> <p>16 knew the reason he provided it?</p> <p>17 A. That I do not know. I do not know if I</p> <p>18 ever knew.</p> <p>19 (Exhibit No. 32 marked for</p> <p>20 identification.)</p> <p>21 A. I'm ready.</p> <p>22 BY MR. VETTORI:</p> <p>23 Q. What is this document?</p> <p>24 A. This is a screen print of one of the</p> <p>25 sections of an ECFMG program concerning Akoda,</p>	07	<p>1 that the gentleman by the name of Akoda is</p> <p>2 participating in a residency program at Jersey Shore</p> <p>3 Medical Center?</p> <p>4 A. Strictly speaking that he had started the</p> <p>5 program.</p> <p>6 Q. And this completed form was received by</p> <p>7 ECFMG on July 24, 1990 -- I can't tell the date.</p> <p>8 Can you read that date?</p> <p>9 A. I can read the July 24, but not the</p> <p>10 rest.</p> <p>11 Q. I think it's '99.</p> <p>12 A. Since the valid indefinitely sticker was</p> <p>13 sent in 1998, it's likely 1998 is the date it was</p> <p>14 received.</p> <p>15 Q. So it's my somewhat limited understanding</p> <p>16 that as of 1998 when a IMG who has been certified by</p> <p>17 ECFMG and who has passed step three of the USMLE</p> <p>18 applies to a residency program, ECFMG in some</p> <p>19 fashion assists in that application if requested to</p> <p>20 do so? Is that understanding correct?</p> <p>21 MS. MCENROE: Objection for form.</p> <p>22 A. Assist in the application?</p> <p>23 BY MR. VETTORI:</p> <p>24 Q. Yes. And you can restate it, if it helps</p> <p>25 you</p>
06	<p>1 comma, John Nosa.</p> <p>2 Q. What does CIBIS stand for?</p> <p>3 A. I don't recall what the acronym stands</p> <p>4 for, but CIBIS was the common USMLE database for the</p> <p>5 three organizations that used the USLME.</p> <p>6 Q. Which three organizations?</p> <p>7 A. They were ECFMG, National Board of Medical</p> <p>8 Examiners, and the Federation of State Medical</p> <p>9 Boards.</p> <p>10 Q. It looks to me like this document reflects</p> <p>11 that this person by the name of Akoda passed step</p> <p>12 three at the exam of May 12, 1998. Am I reading</p> <p>13 that correctly?</p> <p>14 A. Yes.</p> <p>15 (Exhibit No. 33 marked for</p> <p>16 identification.)</p> <p>17 A. I reviewed this.</p> <p>18 BY MR. VETTORI:</p> <p>19 Q. This is what we were talking about</p> <p>20 earlier?</p> <p>21 A. Right, this is a request to permanently</p> <p>22 revalidate the certificate with respect to the</p> <p>23 English test expiration.</p> <p>24 Q. And this Exhibit 33 is Bates stamp</p> <p>25 0000617. And it's -- does this document indicate</p>	08	<p>1 A. Yeah. I mean, we work with the</p> <p>2 Association of Medical -- American Medical Colleges</p> <p>3 for the electronic residency application service</p> <p>4 where we serve as the dean station for international</p> <p>5 medical graduates applying for residency programs.</p> <p>6 So in that sense we are a part of that process.</p> <p>7 Q. So as part of your participation in the</p> <p>8 ERAS process, is it correct that -- when an</p> <p>9 applicant -- I'm sorry. When an IMG applies to a</p> <p>10 residency program using ERAS, another acronym, ECFMG</p> <p>11 transmits a status report to the residency program;</p> <p>12 is that correct?</p> <p>13 A. That was the process, yes.</p> <p>14 Q. As part of that ERAS process, again I'm</p> <p>15 talking about this 1998 time period, did the -- was</p> <p>16 the applicant required to send to ECFMG supporting</p> <p>17 documents for further transmission to the residency</p> <p>18 program?</p> <p>19 A. I am not sure.</p> <p>20 Q. As part of the ERAS program, in the time</p> <p>21 period we're talking about, was it the practice for</p> <p>22 ECFMG to transmit the IMGs USMLE transcripts as</p> <p>23 requested by the applicant?</p> <p>24 A. If requested by the applicant, yes.</p> <p>25 Q. Do you know what, generally speaking,</p>

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28 (109 to 112)

09	1
1 application materials would have been provided to	1 A. Okay. I reviewed it.
2 the residency program through this ERAS process?	2 Q. Okay. Are you familiar with this
3 A. I don't recall.	3 letter?
4 Q. How about a curriculum vitae, would that	4 A. I've seen this letter before, yes.
5 be part of it?	5 Q. This is a letter from James McCorkel who
6 A. I believe that was something they would	6 is vice president of academic affairs at Jersey
7 look for, yes.	7 Shore Medical Center to Eric Holmes at ECFMG
8 Q. Is there something called a universal	8 dated -- I don't know what the date is, but it was
9 residency application form?	9 received by ECFMG on August 11, 2000, correct?
10 A. There may be, but I have no knowledge.	10 A. That's the received date, yes. There is a
11 Q. Would the application materials also	11 Friday, August 11, 2000, that date under Meridian
12 include evidence of graduation from medical	12 Health Systems.
13 school?	13 Q. Thank you. What does the AIS stand for
14 A. I don't know.	14 under ECFMG?
15 Q. Would it also include ECFMG	15 A. Applicant Information Services.
16 certification?	16 Q. Are you the "To Bill" on the top?
17 A. The application itself?	17 A. Very likely, yes.
18 Q. Or anything that ECFMG did in connection	18 Q. I take it Mr. Holmes holds a pretty steep
19 with this ERAS process.	19 position or did at ECFMG?
20 A. The ECFMG status report sent to the	20 A. His name was Royce, R-O-Y-C-E, and he
21 program would indicate their certification status.	21 since died and he was in the information services
22 Q. Were letters of recommendation a part of	22 department.
23 this ERAS process?	23 Q. Would you agree with me that in this
24 A. Yes.	24 letter Doctor McCorkel is notifying ECFMG that John
25 Q. Let's talk about that for a minute. What	25 Charles Akoda certificate 05532585 who is a resident
0	2
1 was the applicant's role in submitting letters of	1 in the Jersey Shore residency program presented to
2 recommendation, if any, and what was ECFMG's role in	2 Jersey Shore Medical Center a Social Security number
3 following up on those letters of recommendation, if	3 that was issued to Igberase?
4 any?	4 A. That is what he states, yes.
5 MS. MCENROE: Objection to form.	5 Q. That Social Security number ended in
6 A. I believe the process changed	6 9065?
7 significantly over time and at this period of time I	7 A. That's what the letter says, yes.
8 really don't recall what the specific process was.	8 Q. That's the same 9065 number that was
9 BY MR. VETTORI:	9 provided to you in Exhibit 32 in 1998, correct?
10 Q. Well, do you recall what the process was	10 A. Exhibit 31, yes.
11 before it evolved at some point, because if you do,	11 Q. Did I mix my numbers up? Okay. I stand
12 you can tell what it was and what it become?	12 corrected. Thank you. It looks to me like Stephen
13 A. First I circle back. ERAS was not part of	13 Seeling replied to that letter on August 22, 2000.
14 my area. I just want to let you know that so -- but	14 Do you remember we talked about that earlier?
15 I found it significantly a lot about it.	15 A. That's Exhibit 31.
16 I know letters of recommendation were	16 MR. VETTORI: Can we mark that,
17 submitted to ECFMG in hard copy. Whether they were	17 please?
18 submitted directly by the person who wrote them or	18 A. I have a letter.
19 by the applicant I don't recall.	19 Q. I think you told me you wrote this
20 Q. Fair enough. More to come.	20 letter?
21 A. Pardon?	21 A. Yes, I'm sure I did.
22 Q. More to come on that subject.	22 (Exhibit No. 35 marked for
23 A. Okay.	23 identification.)
24 (Exhibit No. 34 marked for	24 Q. This letter that you ghosted for
25 identification.)	25 Mr. Seeling indicates that the medical diploma of

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29 (113 to 116)

3	<p>1 the individual certified under 482700-2 was verified</p> <p>2 with the medical school. Do you see that in the</p> <p>3 third paragraph?</p> <p>4 A. Yes.</p> <p>5 Q. And it says the same thing in the second</p> <p>6 paragraph about the diploma of the individual</p> <p>7 certified as number 0553-285-5, correct?</p> <p>8 A. Yes.</p> <p>9 Q. We've already established for the record</p> <p>10 that it was the same diploma, correct?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 Q. Let me restate the question. There is no</p> <p>13 diploma in the name of -- hold on a second. Let me</p> <p>14 make sure I got the right name -- Igberase Oluwafemi</p> <p>15 Charles?</p> <p>16 MS. MCENROE: Objection to form.</p> <p>17 A. I have to go back and look at the</p> <p>18 diploma.</p> <p>19 Q. I can represent to you -- you can look at</p> <p>20 anything you want. I can represent to you we talked</p> <p>21 about this for about five minutes and the last name</p> <p>22 on the diploma is Igberase. This is the one you</p> <p>23 said was the order of the names was different?</p> <p>24 A. Yes.</p> <p>25 Q. But there is in fact no diploma with the</p>	5
4	<p>1 A. That's correct.</p> <p>2 Q. Do you have a specific recollection of</p> <p>3 that?</p> <p>4 A. I do not.</p> <p>5 (Exhibit No. 36 marked for</p> <p>6 identification.)</p> <p>7 Q. Have you read the letter?</p> <p>8 A. Yes.</p> <p>9 Q. I'm not trying to rush you.</p> <p>10 A. No, I read it.</p> <p>11 Q. This is a letter from you to Akoda dated</p> <p>12 August 22, 2000, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. And it's basically telling Akoda you want</p> <p>15 an explanation in writing within fifteen days of the</p> <p>16 information that had been submitted to you by Doctor</p> <p>17 McCorkel, correct?</p> <p>18 A. I don't think it makes any reference to</p> <p>19 McCorkel in this letter, but we asked for an</p> <p>20 explanation, yes.</p> <p>21 Q. But it's because of Doctor McCorkel's</p> <p>22 letter that you're writing this letter, correct?</p> <p>23 MS. MCENROE: Objection to form.</p> <p>24 A. It appears to be, yes.</p> <p>25 Q. And in your opening sentence you said that</p>	6
4	<p>1 last name Charles on it?</p> <p>2 MS. MCENROE: Objection.</p> <p>3 A. Listed as the last name on the diploma?</p> <p>4 Q. Correct.</p> <p>5 A. Yes.</p> <p>6 Q. In Mr. McCorkel's letter to you, the prior</p> <p>7 exhibit, he also talks about the fact that Jersey</p> <p>8 Shore Medical Center would be interested in knowing</p> <p>9 whether ECFMG had requested for verification of</p> <p>10 Doctor Akoda, also known as Doctor Igberase, ECFMG's</p> <p>11 certification status from other teaching hospitals</p> <p>12 including Harlem Hospital Center in the period of</p> <p>13 time of approximately 1995 to '96 or JFK Memorial</p> <p>14 Hospital in 1997, '98. Do you see that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. In the letter you ghosted for Mr. Seeling</p> <p>17 it was stated that on the last paragraph, "ECFMG has</p> <p>18 no record of receipt of request for verification of</p> <p>19 the certification status from Harlem Hospital Center</p> <p>20 or JFK Memorial Hospital Center." Do you see</p> <p>21 that?</p> <p>22 A. Yes.</p> <p>23 Q. I take it you or somebody at your</p> <p>24 direction made an investigation of that before</p> <p>25 writing that letter?</p>	6

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30 (117 to 120)

7	<p>1 name Charles, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And it also goes on to say, next</p> <p>4 paragraph, when Akoda applied to ECFMG, he certified</p> <p>5 on his application that the falsification of the</p> <p>6 application or submission of any falsified</p> <p>7 educational documents may be sufficient to cause --</p> <p>8 sufficient cause for ECFMG to bar, et cetera, et</p> <p>9 cetera. You were telling him that he may have</p> <p>10 engaged in that illegal behavior?</p> <p>11 A. Yes.</p> <p>12 Q. May have engaged in that illegal behavior;</p> <p>13 is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you also told him in this letter that</p> <p>16 ECFMG required an explanation from him in writing</p> <p>17 within fifteen days, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And you also told him that his file</p> <p>20 together with any explanation he would provide and</p> <p>21 any other material he wanted to submit would be</p> <p>22 referred to the ECFMG committee on medical education</p> <p>23 credentials for review at its next scheduled</p> <p>24 meeting, correct?</p> <p>25 A. Yes.</p>	9
8	<p>1 Q. You never did that, did you?</p> <p>2 A. I don't recall.</p> <p>3 (Exhibit No. 37 marked for</p> <p>4 identification.)</p> <p>5 Q. What is Exhibit 37, Mr. Kelly?</p> <p>6 A. It's a copy of a memorandum from me to the</p> <p>7 file of 05532585, Doctor John Akoda.</p> <p>8 Q. And it recites that he spoke with James</p> <p>9 McCorkel that day?</p> <p>10 A. Yes.</p> <p>11 Q. And that among other things, Doctor</p> <p>12 McCorkel had contacted Harlem Hospital and sent a</p> <p>13 photograph to them and he was waiting to hear back</p> <p>14 from them?</p> <p>15 A. Yes.</p> <p>16 MR. VETTORI: This is a good time to</p> <p>17 stop.</p> <p>18 (Recess taken at 1:30 p.m.)</p> <p>19 (Back on the record at 1:35 p.m.)</p> <p>20 BY MR. VETTORI:</p> <p>21 Q. Can you go back to Exhibit 34?</p> <p>22 A. (Complies.)</p> <p>23 Q. So in the first paragraph Doctor McCorkel</p> <p>24 writes -- I'm sorry. He indicates that there has</p> <p>25 been an allegation that Akoda also served as a</p>	20
	<p>1 resident -- I'm in the first paragraph -- two other</p> <p>2 U.S. residency programs under the name of Oluwafemi</p> <p>3 Charles Igberase. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And he says, "On verifying his Social</p> <p>6 Security number, 9065, we have discovered that it</p> <p>7 was issued to Charles Igberase. When presented with</p> <p>8 this information late yesterday, this doctor stated</p> <p>9 that he had used all of these names and that he has</p> <p>10 never served in another USACG accredited residency</p> <p>11 program." Do you see that?</p> <p>12 A. Yes.</p> <p>13 (Exhibit No. 38 marked for</p> <p>14 identification.)</p> <p>15 Q. Let me know when you're finished reading</p> <p>16 it, sir.</p> <p>17 A. I've read it.</p> <p>18 Q. Is this the letter that was received by</p> <p>19 ECFMG from Akoda in response to your August 22, 2000</p> <p>20 letter?</p> <p>21 A. That's what it states, yes.</p> <p>22 Q. In this letter he denies that he has taken</p> <p>23 the examination under different names; is that</p> <p>24 correct?</p> <p>25 A. That's correct.</p>	

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31 (121 to 124)

<p>2</p> <p>1 A. Yes.</p> <p>2 Q. And that's for, quote, inconsistencies,</p> <p>3 closed quotes?</p> <p>4 A. Yes.</p> <p>5 Q. Do you remember any more discussion or any</p> <p>6 elaboration of that?</p> <p>7 A. No.</p> <p>8 Q. Also it appears in the last sentence that</p> <p>9 McCorkel told you Akoda claims he and Igberase and</p> <p>10 Charles are cousins, correct?</p> <p>11 A. That Akoda claimed that was a cousin,</p> <p>12 yes.</p> <p>13 Q. And McCorkel says his discussions with</p> <p>14 Harlem Hospital were, quote, not definitive,</p> <p>15 right?</p> <p>16 A. Yes.</p> <p>17 Q. Do you remember any more details about</p> <p>18 what "not definitive" meant?</p> <p>19 A. No.</p> <p>20 (Exhibit No. 40 marked for</p> <p>21 identification.)</p> <p>22 A. I've read this.</p> <p>23 Q. So am I correct these are your handwritten</p> <p>24 notes of your conversation with McCorkel reflected</p> <p>25 in Exhibit 39?</p>	<p>23</p> <p>1 have elaborated on this last sentence?</p> <p>2 A. That's correct.</p> <p>3 Q. If it happened?</p> <p>4 A. Yeah, which leads me to think it may</p> <p>5 not.</p> <p>6 (Exhibit No. 41 marked for</p> <p>7 identification.)</p> <p>8 Q. Can we go back to the previous exhibit,</p> <p>9 Exhibit No. 40?</p> <p>10 A. Yes.</p> <p>11 Q. Sort of like in the left-hand margin</p> <p>12 there's a couple of entries. Can you read that</p> <p>13 "more than ECFMG" -- I can't read that.</p> <p>14 A. It says, "More than ECFMG, it looks to me</p> <p>15 we'll be interested."</p> <p>16 Q. And is there an arrow down to the next</p> <p>17 entry?</p> <p>18 A. It looks as those there is some connecting</p> <p>19 line.</p> <p>20 Q. What does it say?</p> <p>21 A. If I'm reading correctly, sometimes it's</p> <p>22 hard to read your own handwriting from 20 something</p> <p>23 years ago.</p> <p>24 Q. Amen.</p> <p>25 A. It looks like "A waiver in name Akoda, not</p>
<p>22</p> <p>1 A. That's what they appear to be, yes.</p> <p>2 Q. So at the bottom of the page you write,</p> <p>3 Received, I think, communications, hyphen, off</p> <p>4 record, and above it is written CEO. What does that</p> <p>5 mean, CEO?</p> <p>6 A. Chief executive officer, I believe.</p> <p>7 Q. So can you put that into context? What</p> <p>8 does "received CEO communications" mean?</p> <p>9 A. What McCorkel was telling me was -- and</p> <p>10 these were notes I would have been taking during the</p> <p>11 time of the telephone call.</p> <p>12 Q. Sure.</p> <p>13 A. But that he had said he received CEO</p> <p>14 communications at his institution, but off the</p> <p>15 record he's telling me he cannot share -- he cannot</p> <p>16 share them, and it's not definitive, but whatever</p> <p>17 information they had did not ease his concern.</p> <p>18 Q. Did you ask him what he meant by that?</p> <p>19 A. I may have.</p> <p>20 Q. You don't recall?</p> <p>21 A. I don't recall.</p> <p>22 Q. You didn't put it in your notes?</p> <p>23 A. I have nothing in my notes.</p> <p>24 Q. And you didn't put it in a memorandum?</p> <p>25 You didn't put in your memorandum anything that may</p>	<p>24</p> <p>1 Igberase.</p> <p>2 Q. What does waiver mean?</p> <p>3 A. I don't know.</p> <p>4 Q. So in the middle of the page of your notes</p> <p>5 it says, "He'll talk to attorney," meaning</p> <p>6 McCorkel?</p> <p>7 A. That is my understanding of what I mean</p> <p>8 here, yes.</p> <p>9 Q. "If appeal will not" -- can you read the</p> <p>10 rest of that for me?</p> <p>11 A. It says, "Communicate additional fifteen</p> <p>12 days. We'll hear otherwise in a week."</p> <p>13 Q. Is that pretty much what you said in your</p> <p>14 memorandum, 39?</p> <p>15 A. Yes.</p> <p>16 Q. Is that what you're referring to?</p> <p>17 A. Yes.</p> <p>18 Q. Let's go to 41, would you, please? What</p> <p>19 is 41?</p> <p>20 A. It's a memorandum from me to file 0553258</p> <p>21 John Akoda.</p> <p>22 Q. Does this memorandum reflect the fact that</p> <p>23 Akoda came to your office?</p> <p>24 A. Yes.</p> <p>25 Q. On that date, September 27, 2000?</p>

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32 (125 to 128)

25	<p>1 A. Yes.</p> <p>2 Q. He told you that he's not Igberase</p> <p>3 Charles, but rather than he's his cousin?</p> <p>4 A. That's what he said, yes.</p> <p>5 Q. And --</p> <p>6 A. -- according to the memo.</p> <p>7 Q. I apologize, Mr. Kelly. He again admits</p> <p>8 to using his cousin's Social Security number,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And so he provided you with an original</p> <p>12 Nigerian passport and Nigerian international driving</p> <p>13 permit and you made copies, right?</p> <p>14 A. That's what it says.</p> <p>15 Q. He told you that he'd been suspended by</p> <p>16 Jersey Shore?</p> <p>17 A. Yes.</p> <p>18 Q. Did you make any attempt at that time to</p> <p>19 verify the authenticity of his passport?</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. I don't remember.</p> <p>22 Q. Did you at any time make an attempt to</p> <p>23 verify the authenticity of his passport?</p> <p>24 MS. MCENROE: Objection to form.</p> <p>25 A. I don't remember.</p>	27	<p>1 there?</p> <p>2 A. April 17, 1963.</p> <p>3 (Exhibit No. 42 marked for</p> <p>4 identification.)</p> <p>5 Q. While looking at -- Mr. Kelly, this is a</p> <p>6 copy of Federal Republic of Nigeria passport</p> <p>7 produced to us by ECFMG. Would you agree with what</p> <p>8 I just said?</p> <p>9 A. Is this the copy that was in his ECFMG</p> <p>10 record?</p> <p>11 Q. It was produced to us by ECFMG. It's got</p> <p>12 a Bates number on it.</p> <p>13 A. Then it is.</p> <p>14 Q. Would this have been what he produced to</p> <p>15 you at this meeting?</p> <p>16 A. If this is in the ECFMG records as having</p> <p>17 been produced, yes. I don't know just by looking at</p> <p>18 it.</p> <p>19 Q. I appreciate that. What is his date of</p> <p>20 birth on his passport?</p> <p>21 A. It looks like January 1, 1959.</p> <p>22 Q. That's different from the birth date on</p> <p>23 Exhibit 33?</p> <p>24 A. Yes.</p> <p>25 Q. So I'm not sure, maybe this is a function</p>
26	<p>1 Q. Do you remember whether his passport</p> <p>2 showed a date of birth?</p> <p>3 A. I would have to look at it, but generally</p> <p>4 I know passports have dates of birth.</p> <p>5 Q. And did you ever go back and check the</p> <p>6 date of birth on his passport in comparison with the</p> <p>7 date of birth on Exhibit 33, his request for</p> <p>8 permanent revalidation of standard ECFMG</p> <p>9 certificate?</p> <p>10 A. I don't know if I did.</p> <p>11 Q. Do you know how you would go about</p> <p>12 checking the authenticity of a Nigerian passport?</p> <p>13 MS. MCENROE: Objection to form.</p> <p>14 A. Do I know?</p> <p>15 Q. Did you know at that time?</p> <p>16 A. I may have. That would be trying to</p> <p>17 project or guessimate what would have happened.</p> <p>18 MR. VETTORI: Shut up. That was my</p> <p>19 watch I was talking to.</p> <p>20 MS. MCENROE: Let the record</p> <p>21 reflect.</p> <p>22 Q. Take a look at Exhibit 33 for me, would</p> <p>23 you, please?</p> <p>24 A. Yes.</p> <p>25 Q. What is the date of birth listed on</p>	28	<p>1 of my age, whether Google even existed in the year</p> <p>2 2000, but I can tell you, I Googled Nigerian</p> <p>3 passports and that search tells me that a Nigerian</p> <p>4 passport has eight digits and one letter.</p> <p>5 How many digits do you see on the</p> <p>6 passport that I just marked as an exhibit?</p> <p>7 MS. MCENROE: Objection to form.</p> <p>8 A. Are you talking about the passport number?</p> <p>9 Q. Yes, sir.</p> <p>10 A. It looks like one letter and six</p> <p>11 numbers -- six digits.</p> <p>12 Q. I think it is seven.</p> <p>13 A. Counting zero, yes.</p> <p>14 Q. That's still part of our numbering system,</p> <p>15 isn't it? Don't answer that question. So if in</p> <p>16 fact a simple search can lead to a determination</p> <p>17 that Nigerian passports have to have at least eight</p> <p>18 numbers in them and the passport he presented to you</p> <p>19 only has seven, wouldn't that have heightened ECFMG</p> <p>20 suspicion in light of all things that are being said</p> <p>21 by Doctor McCorkel about Akoda's true identity?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. You said the numbering system in 2000 was</p> <p>24 the same that you're saying?</p> <p>25 Q. I don't know the answer to that. I'm</p>

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33 (129 to 132)

29	<p>1 telling you that is the number system now.</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 Q. I don't think there's a question pending.</p> <p>4 I think he's told me he doesn't know.</p> <p>5 A. I don't know.</p> <p>6 Q. It's fair to say that, though, that you</p> <p>7 have no recollection of making any attempt to verify</p> <p>8 the authenticity of that passport?</p> <p>9 MS. MCENROE: Objection to form.</p> <p>10 A. I do not remember making an attempt,</p> <p>11 yes.</p> <p>12 Q. So either before Akoda came into your</p> <p>13 office on September 27 or after he came into your</p> <p>14 office, did you undertake any investigation of your</p> <p>15 database to try to determine whether Akoda and</p> <p>16 Igberase were one and the same person?</p> <p>17 A. I don't remember.</p> <p>18 Q. I think we've established from some of the</p> <p>19 applications that we've gone over here today that</p> <p>20 photographs are attached to the applications?</p> <p>21 A. Photographs of the applicant, yes.</p> <p>22 Q. Those are maintained in ECFMG's</p> <p>23 database?</p> <p>24 A. Yes.</p> <p>25 Q. If you, either before or after September</p>	3
30	<p>1 27, had gone into the database to look for a</p> <p>2 photograph of Igberase and looked for a photograph</p> <p>3 of Akoda, you could have done that?</p> <p>4 MS. MCENROE: Objection to form.</p> <p>5 A. I believe I could have, yes.</p> <p>6 Q. You didn't do that?</p> <p>7 A. I don't know if I did.</p> <p>8 Q. So how long did Igberase spend in your</p> <p>9 office on the 27th of September 2000?</p> <p>10 A. I do not know.</p> <p>11 Q. I take it you didn't recognize him as</p> <p>12 somebody you'd seen before?</p> <p>13 A. I don't know. I don't recall.</p> <p>14 Q. Well, I take it if you had recognized him</p> <p>15 as someone you had seen before, you would have</p> <p>16 memorialized that in some fashion, wouldn't you?</p> <p>17 MS. MCENROE: Objection to form.</p> <p>18 A. It depends on what you mean by someone</p> <p>19 I've seen before.</p> <p>20 Q. Seen as a someone holding himself out to</p> <p>21 be someone by the name of Charles or by the name of</p> <p>22 Igberase?</p> <p>23 MS. MCENROE: Objection to form.</p> <p>24 A. I believe I would have, yes.</p> <p>25 Q. So you actually had seen Charles before,</p>	32
	<p>1 hadn't you?</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 A. I don't recall.</p> <p>4 Q. So do you remember when I asked you some</p> <p>5 questions earlier today about -- humor me -- the</p> <p>6 history of the events with Igberase and Charles?</p> <p>7 A. Yes.</p> <p>8 Q. Do you remember you told me, because you</p> <p>9 wrote it in a letter when you were reciting that</p> <p>10 history, that he took an appeal from the original</p> <p>11 invalidation and revocation of the two</p> <p>12 certificates?</p> <p>13 A. Yes.</p> <p>14 Q. And that there was an appeal hearing in</p> <p>15 Washington, D.C. on July 11, 2016.</p> <p>16 A. I remember there was an appeal hearing.</p> <p>17 Q. And you were there?</p> <p>18 A. Yes.</p> <p>19 Q. And you were there for a number of</p> <p>20 hours?</p> <p>21 A. Okay.</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 Q. Is that correct?</p> <p>24 A. I remember being there, yes.</p> <p>25 Q. And so you sat in a room with this person</p>	

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34 (133 to 136)

<p>33</p> <p>1 identification.)</p> <p>2 A. I'm leafing through it.</p> <p>3 Q. Please do. I can tell you that I didn't</p> <p>4 find any start date for that transcript, but if you</p> <p>5 look on the last page it ends at 11:50.</p> <p>6 A. Okay.</p> <p>7 Q. Don't take my word for it. Please verify</p> <p>8 it.</p> <p>9 A. Okay. Yes.</p> <p>10 Q. And on the cover sheet it shows you as</p> <p>11 being present, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And I'll represent to you that this</p> <p>14 individual who goes by the name of Charles who is</p> <p>15 also we know now Igberase testified at this</p> <p>16 hearing?</p> <p>17 A. Yes.</p> <p>18 Q. So whether it's an hour or two hours or</p> <p>19 three hours, it's some period of time that you were</p> <p>20 present in Washington, D.C. at a proceeding where</p> <p>21 the individual calling himself Charles appeared and</p> <p>22 testified, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And a person calling himself Akoda, who</p> <p>25 was in your office having been accused of really</p>	<p>35</p> <p>1 know.</p> <p>2 Q. "Final meeting next week," do you know</p> <p>3 what was meant by that?</p> <p>4 A. No.</p> <p>5 Q. You write, "Akoda on suspension until 10/1</p> <p>6 asking him to clarify inconsistencies." Did I read</p> <p>7 that correctly?</p> <p>8 A. I think that's correct, yes.</p> <p>9 Q. That was related to you by Doctor</p> <p>10 McCorkel?</p> <p>11 A. That would have been, yes.</p> <p>12 Q. It says, "Two different green cards,</p> <p>13 slash, different dates." Am I reading that</p> <p>14 correctly?</p> <p>15 A. That's what it looks like, yes.</p> <p>16 Q. Do you remember that conversation?</p> <p>17 A. I don't remember the conversation.</p> <p>18 Q. "Fingerprints, birth dates, numbers,</p> <p>19 driver license." Am I reading that accurately?</p> <p>20 A. Yes.</p> <p>21 Q. What is the significance of that or what</p> <p>22 do you recall about it?</p> <p>23 A. I have no recollection of it.</p> <p>24 Q. So you don't really recall this</p> <p>25 conversation, we're just going over your notes?</p>
<p>34</p> <p>1 being Igberase, who was really Charles, and you</p> <p>2 didn't know it was the same person you'd seen</p> <p>3 testifying?</p> <p>4 MS. MCENROE: Objection.</p> <p>5 A. From four years before, I did not know.</p> <p>6 (Exhibit No. 44 marked for</p> <p>7 identification.)</p> <p>8 Q. Is that your handwriting?</p> <p>9 A. Yes. Okay. I've read it.</p> <p>10 Q. These are your notes of the telephone</p> <p>11 conversation with Doctor McCorkel on October 5,</p> <p>12 2000; is that correct?</p> <p>13 A. That's what they appear to be, yes.</p> <p>14 Q. So it starts off by saying, "Akoda meeting</p> <p>15 schedule with Akoda at 11 a.m. and at 2 p.m." What</p> <p>16 meeting is that referencing?</p> <p>17 A. I believe it's a meeting Akoda was having</p> <p>18 with McCorkel.</p> <p>19 Q. And "inconsistencies in file." Can you</p> <p>20 read the next sentence for me?</p> <p>21 A. "With Doctor Frank, the program director."</p> <p>22 Q. Do you know what that means? What do you</p> <p>23 remember what that means?</p> <p>24 A. Whether it means that the meeting is going</p> <p>25 to include the program director or not, I don't</p>	<p>36</p> <p>1 A. Yes.</p> <p>2 Q. "Indicated he was going to Nigeria and</p> <p>3 return on 10/15 but he is in USA?"</p> <p>4 A. That would be what McCorkel would have</p> <p>5 told me.</p> <p>6 Q. Over on the left -- I saw you tilt your</p> <p>7 head too, which I have to do too. I guess I can</p> <p>8 turn to the page.</p> <p>9 A. That's what I should have done.</p> <p>10 Q. "Currently suspended and will not be</p> <p>11 reinstated?"</p> <p>12 A. Yes.</p> <p>13 Q. "Unless satisfactory explanation for</p> <p>14 inconsistencies, will notify ECFMG?"</p> <p>15 A. That's what I read as well.</p> <p>16 Q. Is that what McCorkel told you when he</p> <p>17 reported it?</p> <p>18 A. Yes.</p> <p>19 Q. "Due process review panel Wednesday 2 p.m.</p> <p>20 10/11, question mark, not yet there." Do you</p> <p>21 remember what that was all about?</p> <p>22 A. I don't.</p> <p>23 Q. "Harlem Hospital thinks he may be the</p> <p>24 same." Can you explain that?</p> <p>25 A. I would only be guessing what I meant by</p>

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35 (137 to 140)

<p style="text-align: right;">37</p> <p>1 that. I don't know.</p> <p>2 Q. You don't remember what he was referring</p> <p>3 to?</p> <p>4 A. No.</p> <p>5 Q. "10/19 notice to Akoda he will be</p> <p>6 terminated in thirty days. If he does not appeal in</p> <p>7 ten days, re, two Social Security numbers?"</p> <p>8 A. That's what it says.</p> <p>9 Q. Did I read that correctly? That's what</p> <p>10 Doctor McCorkel told you?</p> <p>11 A. That what's he would have told me, yes.</p> <p>12 (Exhibit No. 45 marked for</p> <p>13 identification.)</p> <p>14 A. Okay. I read it.</p> <p>15 Q. So it looks to me like on this document --</p> <p>16 it's an e-mail chain -- it's you to Igberase and</p> <p>17 Akoda back to you. Am I correct?</p> <p>18 A. Yes.</p> <p>19 Q. The bottom e-mail is the first e-mail in</p> <p>20 time?</p> <p>21 A. Yes.</p> <p>22 Q. You e-mailed Cfeme, C-F-E-M-E, at</p> <p>23 hotmail.com on Thursday, December 21, 2000 at 1638</p> <p>24 hours. What is that? 4:38? Who is in the</p> <p>25 military?</p>	<p style="text-align: right;">39</p> <p>1 Q. Fair enough.</p> <p>2 (Exhibit No. 46 marked for</p> <p>3 identification.)</p> <p>4 A. I've read this.</p> <p>5 Q. So Exhibit 46, am I correct, is your</p> <p>6 December 21, 2000 memorandum to the file?</p> <p>7 A. To file 05532585, John Akoda.</p> <p>8 Q. Correct. It's memorializing a telephone</p> <p>9 conversation you had that day with Doctor</p> <p>10 McCorkel?</p> <p>11 A. Yes.</p> <p>12 Q. And in the telephone call Doctor McCorkel</p> <p>13 told you Akoda had been dismissed from the Jersey</p> <p>14 Shore Medical Center, correct?</p> <p>15 A. That's what it says, yes.</p> <p>16 Q. He says it was because, one, Akoda used a</p> <p>17 false Social Security number when he applied to the</p> <p>18 hospital?</p> <p>19 A. Yes.</p> <p>20 Q. And that he acknowledged to McCorkel that</p> <p>21 he had used the Social Security number of his cousin</p> <p>22 Charles Igberase; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. He also says because the green card he</p> <p>25 provided the hospital was inconsistent with the</p>
<p style="text-align: right;">38</p> <p>1 A. Yes.</p> <p>2 Q. Thank you.</p> <p>3 A. It looks like 39.</p> <p>4 Q. You said, "Doctor Igberase, I've been</p> <p>5 trying to contact you concerning your application</p> <p>6 submitted to ECFMG. Please contact me as soon as</p> <p>7 possible."</p> <p>8 Do you know if that's referring to</p> <p>9 the 2000 application we saw where he blamed it on</p> <p>10 his friends and his cousin?</p> <p>11 A. I don't.</p> <p>12 Q. You don't remember?</p> <p>13 A. No.</p> <p>14 Q. Okay. So then you get an e-mail back from</p> <p>15 Akoda, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Not Igberase?</p> <p>18 A. Yes.</p> <p>19 Q. And he says he's been trying to reach you.</p> <p>20 Left several messages on your machine. Do you have</p> <p>21 any recollection of that?</p> <p>22 A. No.</p> <p>23 Q. He's questioning why Igberase gave you his</p> <p>24 e-mail because he doesn't use it anymore, correct?</p> <p>25 A. That's what he says, yes.</p>	<p style="text-align: right;">40</p> <p>1 subsequent green card he also provided; different</p> <p>2 number, name, expiration date, and date of birth,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Did you ever do anything to check into</p> <p>6 those green cards?</p> <p>7 MS. MCENROE: Objection to form.</p> <p>8 A. When you say ECFMG normally doesn't</p> <p>9 receive green cards, so, you know...</p> <p>10 Q. Were you curious as to whether there was</p> <p>11 some inconsistencies with this gentleman's green</p> <p>12 card?</p> <p>13 MS. MCENROE: Objection to form.</p> <p>14 A. I don't remember.</p> <p>15 (Exhibit No. 47 marked for</p> <p>16 identification.)</p> <p>17 A. I finished reading it.</p> <p>18 Q. Can you tell me what this document is?</p> <p>19 A. It appears to be an internal, meaning</p> <p>20 ECFMG produced comparison chart of two records.</p> <p>21 Q. Have you ever seen it before? I'm</p> <p>22 sorry --</p> <p>23 A. Yes.</p> <p>24 Q. -- do you recall ever seeing it before?</p> <p>25 A. Yes, I do.</p>

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36 (141 to 144)

<p>4</p> <p>1 Q. And do you know when it was generated?</p> <p>2 A. No, I do not.</p> <p>3 Q. Do you know the purpose for which this</p> <p>4 document was generated?</p> <p>5 A. I believe it was to compare the records.</p> <p>6 Q. To what end? Why was ECFMG comparing the</p> <p>7 records?</p> <p>8 MS. MCENROE: Objection to form.</p> <p>9 A. It looks as though to see what is</p> <p>10 comparable and what's not.</p> <p>11 Q. Did you participate in providing any of</p> <p>12 the information that's contained on this document?</p> <p>13 A. I'm not sure I understand what you mean</p> <p>14 by --</p> <p>15 Q. Okay.</p> <p>16 A. I don't think I prepared the document.</p> <p>17 Q. Okay. Do you know who did?</p> <p>18 A. I don't know for sure, no.</p> <p>19 Q. Would it more likely have been some staff</p> <p>20 at the direction of someone who would have tasked</p> <p>21 them with doing this?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. That is very likely.</p> <p>24 Q. You don't remember who that might have</p> <p>25 been?</p>	<p>43</p> <p>1 A. Such a bar would be the ECFMG -- USMLE.</p> <p>2 Q. That's as of October 2002, correct?</p> <p>3 A. That's what it says, yes.</p> <p>4 Q. On the right-hand side, am I correct this</p> <p>5 is all information about the individual by the name</p> <p>6 of Akoda?</p> <p>7 A. Yes.</p> <p>8 Q. I think if you compare most of the dates</p> <p>9 in that part of the document with the documents</p> <p>10 we've already been over, they're consistent?</p> <p>11 A. Yes.</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 Q. Like you sent a letter on August 22 after</p> <p>14 McCorkel contacted you guys, ECFMG?</p> <p>15 A. Yes.</p> <p>16 Q. And on September 1, 2000 we talked about</p> <p>17 the letter Akoda wrote back to you where he stated</p> <p>18 the allegations were false but admitted that he used</p> <p>19 Charles' Social Security number, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it recites that he came to your office</p> <p>22 and provided a Nigerian passport, right?</p> <p>23 A. Yes.</p> <p>24 Q. So can you focus on that 9/27/2000</p> <p>25 entry?</p>
<p>42</p> <p>1 A. No.</p> <p>2 Q. Do you recall this document ever being</p> <p>3 used for any purpose after it was generated?</p> <p>4 A. I don't recall, no.</p> <p>5 Q. So at the bottom of the page it looks to</p> <p>6 me like it's got the medical examination</p> <p>7 information, much of which we've gone over before,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. So under the -- strike that.</p> <p>11 There is no particular name given to</p> <p>12 this form; this was just an internal document</p> <p>13 generated for some purpose?</p> <p>14 A. Yes.</p> <p>15 Q. So on the left-hand side, am I correct,</p> <p>16 this document recounts historical information about</p> <p>17 the person certified under 04827-2 and the person</p> <p>18 certified under 0519573-0, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you remember from our probably very</p> <p>21 boring and tedious testimony earlier today that it</p> <p>22 was as of October 2002 that USMLE barred this person</p> <p>23 permanently from ECFMG exams and ECFMG</p> <p>24 certification?</p> <p>25 MS. MCENROE: Objection to form.</p>	<p>44</p> <p>1 A. Yes.</p> <p>2 Q. And read it into the record aloud, please.</p> <p>3 A. "Akoda came to ECFMG providing a Nigerian</p> <p>4 passport. Claimed Charles was his cousin and he had</p> <p>5 not used his SS number."</p> <p>6 Q. That's incorrect, isn't it?</p> <p>7 MS. MCENROE: Objection to form.</p> <p>8 A. There are other documents in which he</p> <p>9 admits he used the number.</p> <p>10 Q. Right, and he told you when he came to</p> <p>11 your office that he had used his cousin's Social</p> <p>12 Security number --</p> <p>13 A. Yes.</p> <p>14 Q. -- correct? So why does this document say</p> <p>15 he had not used his cousin's Social Security</p> <p>16 number?</p> <p>17 MS. MCENROE: Objection to form.</p> <p>18 Q. That's an error, isn't it?</p> <p>19 A. I don't know why it says that.</p> <p>20 Q. Okay. That answers that question. Thank</p> <p>21 you. The next question is: That is an error that is</p> <p>22 incorrect, is it not?</p> <p>23 A. It's incorrect based on the other</p> <p>24 documents.</p> <p>25 Q. Is there any way in which it is correct?</p>

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37 (145 to 148)

45	<p>1 MS. MCENROE: Objection to form.</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. The last entry says, "Stated in a separate</p> <p>4 memo, Bill sent Charles an e-mail. Akoda replied,</p> <p>5 Not enough documentation for credentials today." Do</p> <p>6 you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know who authored that entry?</p> <p>9 A. I do not.</p> <p>10 Q. Similarly, do you know who authored the</p> <p>11 entry we went over a moment ago on line 27, 2000</p> <p>12 that he erroneously states that he said he was</p> <p>13 not -- he did not use his cousin's Social Security</p> <p>14 number?</p> <p>15 A. No.</p> <p>16 (Exhibit No. 48 marked for</p> <p>17 identification.)</p> <p>18 A. I've read it.</p> <p>19 Q. Is it correct this is a memo dated</p> <p>20 December 20, 2000 from you to Stephen Seeling, JD?</p> <p>21 A. Yes.</p> <p>22 Q. And it's referencing Akoda ID number</p> <p>23 05532595; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. And the first sentence says, "Attached is</p>	47	<p>1 Igberase and Akoda were one and the same person,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And he said he has no proof, just a strong</p> <p>5 suspicion, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And he said information he received from</p> <p>8 an informant provided details that led him to</p> <p>9 believe this, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know who that informant is?</p> <p>12 A. No.</p> <p>13 Q. Did you ever ask him?</p> <p>14 A. I don't recall.</p> <p>15 Q. You didn't memorialize that anywhere in</p> <p>16 any memos or notes, did you?</p> <p>17 A. If I had, it would be in the record.</p> <p>18 Q. "I also believe Akoda and Igberase are one</p> <p>19 and the same," that's you talking, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Why did you believe that?</p> <p>22 A. I don't remember, but from reviewing the</p> <p>23 records I thought there was a nexus between the</p> <p>24 two.</p> <p>25 Q. After all the time we spent here today</p>
46	<p>1 a copy of a memorandum for the file." Is that</p> <p>2 Exhibit 46, the one dated the day before?</p> <p>3 A. It appears to be.</p> <p>4 Q. So then you say, "This memorandum is being</p> <p>5 written separately since I did not think it should</p> <p>6 be made part of the official file." Why didn't you</p> <p>7 think it should be made part of the official file?</p> <p>8 A. I don't remember.</p> <p>9 Q. You don't remember why you made that</p> <p>10 statement?</p> <p>11 A. No.</p> <p>12 Q. So did you look at this document in</p> <p>13 preparation for this deposition today?</p> <p>14 A. Yes.</p> <p>15 Q. And did you reflect upon this</p> <p>16 memorandum?</p> <p>17 A. Yes.</p> <p>18 Q. Did you ask yourself, Why did I say</p> <p>19 that?</p> <p>20 A. Yes.</p> <p>21 Q. And you can't tell me?</p> <p>22 A. I cannot tell you.</p> <p>23 Q. So in your memorandum you're telling</p> <p>24 Mr. Seeling that in your discussion with Doctor</p> <p>25 McCorkel, Doctor McCorkel told you he believed</p>	48	<p>1 don't you believe it was because of all of the</p> <p>2 information we've talked about?</p> <p>3 MS. MCENROE: Objection to form.</p> <p>4 A. In hindsight, yes.</p> <p>5 Q. At the time it wasn't hindsight; it was</p> <p>6 based on information made available to you then,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. You indicate that, "The only information</p> <p>10 that you have for the committee is Akoda's statement</p> <p>11 that he's not Igberase, although he did admit in</p> <p>12 writing that he used Igberase's Social Security</p> <p>13 number." Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. Didn't you tell Akoda in the letter that</p> <p>16 you wrote to him after McCorkel brought it to</p> <p>17 ECFMG's attention that you were going to refer this</p> <p>18 to the credentials committee including his response,</p> <p>19 if any?</p> <p>20 A. Yes.</p> <p>21 Q. Again, "he has given us a passport that</p> <p>22 appears to confirm his identify as John Akoda." You</p> <p>23 didn't verify the authenticity of that passport, did</p> <p>24 you?</p> <p>25 MS. MCENROE: Objection to form.</p>

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38 (149 to 152)

49	5
<p>1 A. I don't remember.</p> <p>2 Q. So in many of the letters we've reviewed</p> <p>3 here today when you talked about verifying</p> <p>4 applicant's credentials, you also go out and state</p> <p>5 you verified their medical school credentials</p> <p>6 including their diploma, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Would it be safe or fair for me to assume</p> <p>9 that if you had verified the accuracy or</p> <p>10 authenticity of his passport, you would have made a</p> <p>11 statement to that effect somewhere?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. Yes.</p> <p>14 Q. So you indicate that you sent Igberase an</p> <p>15 e-mail, correct?</p> <p>16 A. Yes.</p> <p>17 Q. That's the one we went over a little while</p> <p>18 ago, right?</p> <p>19 A. Yes.</p> <p>20 Q. And you state, quote, "And who should</p> <p>21 reply but Akoda, exclamation mark?"</p> <p>22 A. Yes.</p> <p>23 Q. Correct? That's your emphasis?</p> <p>24 A. Yes.</p> <p>25 Q. That surprised you, didn't it?</p>	<p>1 document that would indicate that such brainstorming</p> <p>2 took place?</p> <p>3 A. No, I have no document.</p> <p>4 Q. In your review for today's deposition did</p> <p>5 you see any such information?</p> <p>6 A. No.</p> <p>7 Q. So why did you suggest Ms. Shirley</p> <p>8 Williams participate? Who is she? What is her</p> <p>9 expertise? Why?</p> <p>10 MS. MCENROE: Objection. Compound.</p> <p>11 A. This period she worked with Steve, and a</p> <p>12 part of her responsibility was researching difficult</p> <p>13 issues and items.</p> <p>14 Q. So Mr. Kelly, I took some time to run</p> <p>15 through the events as I can put them together from</p> <p>16 the documents that counsel provided to me in this</p> <p>17 August to December 2000 period concerning, if you'll</p> <p>18 allow me, this Jersey Shore Medical Center matter.</p> <p>19 Okay?</p> <p>20 A. Yes.</p> <p>21 Q. I've gone through them with you. And I</p> <p>22 want to ask you some questions now that we've been</p> <p>23 through those documents. Fair enough?</p> <p>24 A. Yes.</p> <p>25 Q. As of the last record that we have dealing</p>
50	52
<p>1 A. You mean at the time he answered?</p> <p>2 Q. At the time you wrote this memo. Why did</p> <p>3 you put an exclamation "but Akoda, exclamation</p> <p>4 mark"?</p> <p>5 A. For emphasis or something like that,</p> <p>6 yes.</p> <p>7 Q. Emphasis to what effect?</p> <p>8 A. That it seemed strange.</p> <p>9 Q. Okay. "We need to brainstorm on this</p> <p>10 one." You wrote that, correct?</p> <p>11 A. Yes.</p> <p>12 Q. "Maybe Shirley Williams, parens, Ms.</p> <p>13 Sherlock" -- is that a reference to Sherlock</p> <p>14 Holmes?</p> <p>15 A. Most likely, yes.</p> <p>16 Q. I'm sure it's an affectionate reference.</p> <p>17 I don't know Ms. Williams. "Maybe Shirley Williams,</p> <p>18 parens, Ms. Sherlock could sit in." You wrote that,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Did you and Mr. Seeling with or without</p> <p>22 the assistance of Ms. Sherlock brainstorm this</p> <p>23 matter further?</p> <p>24 A. I don't remember.</p> <p>25 Q. Can you point to me any record, any</p>	<p>1 with this matter, late December 2000, the year 2000,</p> <p>2 correct?</p> <p>3 A. The last document, yes.</p> <p>4 Q. As of late December 2000, you were</p> <p>5 personally familiar with the complete history of the</p> <p>6 fraud committed by Igberase, slash, Charles,</p> <p>7 correct?</p> <p>8 A. I was personally.</p> <p>9 MS. MCENROE: Objection to form.</p> <p>10 Q. Familiar with it.</p> <p>11 A. I would have had access to that</p> <p>12 information, yes.</p> <p>13 Q. You were personally involved in writing</p> <p>14 letters to him about the irregular behavior he</p> <p>15 participated in, correct? We've been through them</p> <p>16 all today.</p> <p>17 A. Yes.</p> <p>18 Q. Again, as of that same time period, the</p> <p>19 end of December 2000, you knew that Igberase -- I'm</p> <p>20 saying Igberase, slash, Charles because both of</p> <p>21 those names were used. Do you understand what I'm</p> <p>22 referring to?</p> <p>23 A. I understand.</p> <p>24 Q. So you knew Igberase Charles had falsified</p> <p>25 answers on documents submitted to ECFMG, correct?</p>

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39 (153 to 156)

53	<p>1 A. Yes.</p> <p>2 Q. And you knew as of late December 2000 that</p> <p>3 ECFMG had invalidated and/or revoked the</p> <p>4 certificates issued to Igberase and Charles,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. You knew there was some connection, a</p> <p>8 relationship between Igberase and Akoda, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you knew that Akoda had used a Social</p> <p>11 Security number of Igberase when he applied to the</p> <p>12 residency program at Jersey Shore Medical Center,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And I think we've already established</p> <p>16 this, I know I'm repeating myself, but bear with me,</p> <p>17 you had the ability to look up all the computer</p> <p>18 photographs of Igberase and Akoda to verify whether</p> <p>19 they were one and the same person, correct?</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. Yes.</p> <p>22 Q. And you didn't do that, correct?</p> <p>23 MS. MCENROE: Objection to form.</p> <p>24 A. If I can circle back, the internal</p> <p>25 document with the comparison, so it would have had</p>	55
54	<p>1 the applications -- the applications would have been</p> <p>2 looked at, I believe, yeah.</p> <p>3 Q. All right. I'm talking about in the</p> <p>4 period when you were investigating whether Akoda had</p> <p>5 used someone else's Social Security number or had</p> <p>6 otherwise acted improperly in connection with the</p> <p>7 matter brought to your attention by the Jersey Shore</p> <p>8 Medical Center.</p> <p>9 A. Okay.</p> <p>10 Q. So for example, when he came into your</p> <p>11 office, you could have looked at photographs on the</p> <p>12 computer, correct?</p> <p>13 A. Yes, that is correct.</p> <p>14 Q. Or when he left the office, you could have</p> <p>15 done it?</p> <p>16 A. That is correct.</p> <p>17 Q. And you didn't?</p> <p>18 A. I don't remember doing it.</p> <p>19 Q. Well, I think we've also established that</p> <p>20 as of this date in late December 2000, you were</p> <p>21 present during the July 10, 1996 appeal hearing</p> <p>22 where Charles testified, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you had the ability to hear him</p> <p>25 testify at that proceeding?</p>	56
	<p>1 A. Yes.</p> <p>2 Q. And you heard him talk to you in your</p> <p>3 office in September 2000, correct?</p> <p>4 A. When he came to the office, yes.</p> <p>5 Q. And you knew according to Doctor McCorkel,</p> <p>6 at least, that Akoda had presented false green</p> <p>7 cards, correct?</p> <p>8 A. He had stated that, yes.</p> <p>9 Q. You could have but didn't verify that the</p> <p>10 passport that Akoda gave you when he came to the</p> <p>11 your office was authentic, correct?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. I did not verify the passport.</p> <p>14 Q. And as of late December 2000, you knew</p> <p>15 that Jersey Shore Medical Center has dismissed Akoda</p> <p>16 from its residency program, correct?</p> <p>17 A. Yes.</p> <p>18 Q. You knew that was at least in part due to</p> <p>19 the fact he used someone else's Social Security</p> <p>20 number?</p> <p>21 A. Yes.</p> <p>22 Q. And you sent Igberase an e-mail at the</p> <p>23 address he provided and Akoda replied to it. We've</p> <p>24 already established that, correct?</p> <p>25 A. Yes.</p>	

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40 (157 to 160)

57	59
<p>1 just went over for the last couple of hours and in</p> <p>2 this last series of questions, ECFMG took no action</p> <p>3 against Akoda until December 2016 following his</p> <p>4 conviction, isn't that true?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 A. I don't know that.</p> <p>7 Q. Prior to the time you left in 2015, had</p> <p>8 ECFMG taken any action against Akoda?</p> <p>9 A. I don't recall.</p> <p>10 Q. Would you admit in having made a</p> <p>11 mistake?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. Would I admit?</p> <p>14 Q. Yes.</p> <p>15 A. If I had, yes.</p> <p>16 Q. Would you admit that you made a mistake</p> <p>17 not referring Akoda to the ECFMG credentials</p> <p>18 committee?</p> <p>19 MS. MCENROE: Objection to form.</p> <p>20 A. I don't think it was a mistake.</p> <p>21 Q. So if he had been referred to the</p> <p>22 credentials committee, would he have been charged</p> <p>23 with irregular behavior for using someone else's</p> <p>24 Social Security number?</p> <p>25 MS. MCENROE: Objection to form.</p>	<p>1 you remember whether he was licensed as a -- did you</p> <p>2 ever learn he was licensed as a nurse in New York?</p> <p>3 A. I don't recall.</p> <p>4 (Exhibit No. 49 marked for</p> <p>5 identification.)</p> <p>6 A. I've read this.</p> <p>7 Q. So Exhibit 49 is a series of letters back</p> <p>8 and forth between ECFMG, either Steve Seeling and</p> <p>9 you and someone by the name of Raymond Heard,</p> <p>10 H-E-A-R-D, senior investigator, Office of</p> <p>11 Professional Discipline, New York State Education</p> <p>12 Department; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. I don't want to spend a lot of time on</p> <p>15 this, but would you agree with me Mr. Heard is</p> <p>16 inquiring about action that ECFMG took concerning</p> <p>17 Igberase that may affect his nursing status?</p> <p>18 A. It references his license.</p> <p>19 Q. So it looks to me the December 17, 2002</p> <p>20 letter from Mr. Heard indicates that his</p> <p>21 organization received notice from ECFMG about the</p> <p>22 revocation of Igberase's standard certification,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. And he's talking about investigating</p>
58	60
<p>1 A. The irregular behavior he would have been</p> <p>2 charged with would be providing false information</p> <p>3 to ECFMG on an application, among other things.</p> <p>4 Q. Which would be the Social Security</p> <p>5 number?</p> <p>6 A. If he provided it on an application.</p> <p>7 Q. So you're aware that Jersey Shore Medical</p> <p>8 Center dismissed him from a residency program he was</p> <p>9 participating in and had been participating in for</p> <p>10 several years for, among other things, submitting</p> <p>11 and using someone else's Social Security number?</p> <p>12 A. Yes.</p> <p>13 Q. You may not be able to answer this. Have</p> <p>14 you ever been advised of what he was convicted of or</p> <p>15 what he pled guilty to in the federal court?</p> <p>16 A. No.</p> <p>17 Q. Do you recall that apparently Igberase was</p> <p>18 licensed as a -- I'm sorry -- Akoda was licensed as</p> <p>19 a nurse in New York?</p> <p>20 A. No.</p> <p>21 Q. Do you remember any information provided</p> <p>22 to ECFMG by Akoda about him being licensed as a</p> <p>23 nurse in the State of New York?</p> <p>24 A. No.</p> <p>25 Q. Same set of questions about Igberase. Do</p>	<p>1 allegations against the person licensed by the State</p> <p>2 of New York Education Department, correct?</p> <p>3 A. Yes.</p> <p>4 Q. So the next letter, which is Bates number</p> <p>5 000253, is from you to Mr. Heard basically telling</p> <p>6 him what action had been taken with respect to</p> <p>7 Igberase, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then Heard writes back to you on March</p> <p>10 31, 2003 asking for some certified documents</p> <p>11 including the application that contains Igberase's</p> <p>12 false response, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And I think the final letter in this</p> <p>15 series is your letter of April 29, 2003, Bates</p> <p>16 number 0000260 through, if you will, 262, which you</p> <p>17 supply a certified copy of the October 23, 2000</p> <p>18 application for Igberase, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know whether there's any document</p> <p>21 in ECFMG's files that ever reflects that Igberase</p> <p>22 was licensed as a nurse in New York?</p> <p>23 A. Separate from this statement here?</p> <p>24 Q. Separate from the information here.</p> <p>25 A. I have no knowledge.</p>

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41 (161 to 164)

6	<p>1 Q. Was this a surprise to you?</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 A. I don't remember.</p> <p>4 Q. Okay. You don't remember this incident at</p> <p>5 all?</p> <p>6 A. No.</p> <p>7 Q. Do you have a recollection sitting here</p> <p>8 today, either based on your personal knowledge or</p> <p>9 anything that in any way your recollection was</p> <p>10 refreshed in preparation for this deposition, that</p> <p>11 Akoda applied for a residency program at Howard</p> <p>12 University, Washington, DC?</p> <p>13 A. No.</p> <p>14 Q. You don't remember that at all?</p> <p>15 A. No.</p> <p>16 (Exhibit No. 50 marked for</p> <p>17 identification.)</p> <p>18 A. Okay. I looked at the document.</p> <p>19 Q. This appears to be a -- well, it says ERAS</p> <p>20 document submission form, correct?</p> <p>21 A. Yes.</p> <p>22 Q. I think you told me you weren't really</p> <p>23 involved in the ERAS process, correct?</p> <p>24 A. It was not part of my department.</p> <p>25 Q. But you're familiar with it?</p>	63
62	<p>1 A. Yes.</p> <p>2 Q. At the bottom it looks like -- is that the</p> <p>3 ECFMG ERAS stamp or did I miss --</p> <p>4 A. Yes.</p> <p>5 Q. And that's October 5, 2006, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So given that this is an ERAS document</p> <p>8 submission form, wouldn't that necessarily mean that</p> <p>9 this is related to some attempt to obtain a</p> <p>10 residency program?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 A. It's part of the electronic residency</p> <p>13 application service, yes.</p> <p>14 Q. But it doesn't have any use outside</p> <p>15 residency programs, does it?</p> <p>16 MS. MCENROE: Objection to form.</p> <p>17 A. The form?</p> <p>18 Q. The whole ERAS process.</p> <p>19 A. Not to my knowledge.</p> <p>20 Q. Because you told me before that as part of</p> <p>21 the ERAS program, ECFMG in effect acts as the dean's</p> <p>22 office for foreign medical graduates or</p> <p>23 international medical graduates to assist them in</p> <p>24 applying for residency programs, correct?</p> <p>25 A. Yes.</p>	64
	<p>1 Q. You don't know -- do you know what was</p> <p>2 going on in 2006 that caused the ERAS process to be</p> <p>3 implemented for Akoda?</p> <p>4 MS. MCENROE: Objection to form.</p> <p>5 A. I can only make a guess that he submitted</p> <p>6 an application.</p> <p>7 Q. But you don't have any recollection about</p> <p>8 him applying to Howard University?</p> <p>9 A. No.</p> <p>10 Q. So this document indicates that -- it says</p> <p>11 "documents submitted with this form, please circle."</p> <p>12 What is MSPE?</p> <p>13 A. It stands for medical school performance</p> <p>14 elevation. It's often called the dean's letter.</p> <p>15 Q. But that wasn't included, according to the</p> <p>16 form?</p> <p>17 A. Right.</p> <p>18 Q. I'm just asking you to help me understand</p> <p>19 this form. Color photograph, that was included?</p> <p>20 A. It says yes.</p> <p>21 Q. Medical school transcript was not</p> <p>22 included?</p> <p>23 A. That's correct.</p> <p>24 Q. So then it says, No. 4, "Original letters</p> <p>25 of recommendation that are included in this</p>	

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<p>65</p> <p>1 individual by the name of Charles A. Francis, MD, 2 correct? 3 A. Yes. 4 Q. And you enclose a copy of a letter of 5 recommendation that Akoda submitted to ECFMG as part 6 of the ERAS process, correct? 7 A. Yes. 8 Q. Is it ERAS services? Help out me out. 9 A. Electronic residency application 10 service. 11 Q. That's like saying ATM machine. ATM is a 12 machine. So we'll just call it ERAS. 13 So you asked in this first page 14 Charles A. Francis MD to write to you to advise 15 whether the enclosed letter is authentic, correct? 16 A. Yes. 17 Q. And immediately following Bates stamp 650, 18 40650, is the letter of reference that you're 19 referring to, some letter purportedly by Charles A. 20 Francis, MD about Doctor John Charles Nosa Akoda 21 dated October 1, 2006, correct? 22 A. Yes. 23 MS. MCENROE: Just for purposes of 24 the record the Bates stamps seem to be a little 25 jumbled together in this exhibit.</p>	<p>67</p> <p>1 Q. That's Bates stamp 000651? 2 A. Yes. 3 Q. And you'll note on Bates stamp 000651 4 there is a stamp received October 5, 2006 ERAS, 5 correct? 6 A. Yes. 7 Q. If you go back to Exhibit 50, the ERAS 8 document submission form that references these three 9 letters of reference you'll see the ERAS form was 10 received on the same date; is that correct? 11 A. Yes. 12 Q. Continuing, the next page in this exhibit 13 is Bates stamp 000649, November 22, 2006, your 14 letter to Phil Robertson, MD, correct? 15 A. Yes. 16 Q. Again, enclosing a letter of reference 17 purportedly from Phil Robertson, MD on behalf of 18 Doctor John Charles Akoda dated 28 September, 2006, 19 correct? 20 A. Yes. 21 Q. It's got the same October 5, 2005 ERAS 22 stamp on it, does it not? 23 A. Yes. 24 Q. Do you have any recollection whether 25 Doctor A.O. Roberts, Doctor Phil Robertson, or</p>
<p>66</p> <p>1 MR. VETTORI: You mean out of order? 2 MS. MCENROE: Yes. 3 MR. VETTORI: They are because they 4 were not produced in a particular order. 5 MS. MCENROE: In terms of making 6 representations -- that's just not how they were 7 produced so I'm just making sure it's clear. 8 MR. VETTORI: Okay. But for the 9 record what I would like to make clear is the two 10 letters go together. 11 MS. MCENROE: That's fine that you're 12 representing that, but I want to make it clear that 13 was not how they were produced. 14 BY MR. VETTORI: 15 Q. So Mr. Kelly, do you have any reason to 16 believe that Bates number 0000650 is not the letter 17 of reference referred to in your letter Bates number 18 000647? 19 A. I have no reason. 20 Q. So continuing on with this exhibit, on 21 November 22, 2006 you wrote a letter to A.O. 22 Roberts, MD and enclosed or attached a letter of 23 reference purportedly written by him on behalf of 24 Akoda on August 20, 2006, correct? 25 A. Yes.</p>	<p>68</p> <p>1 Doctor Charles Francis ever replied to your 2 letters? 3 A. I have no recollection. 4 Q. In your review in preparation for this 5 deposition, did you see any such records? 6 A. I don't recall seeing any. 7 (Exhibit No. 52 marked for 8 identification.) 9 A. Okay. I've read this. 10 Q. What is this document? 11 A. It is a screen print from the ECFMG 12 applicant status program. 13 Q. About Akoda? 14 A. Yes. 15 Q. What does applicant restrictions mean? 16 A. That's what we called flags from the flag 17 file. 18 Q. Flag to file for what purpose? 19 A. There are myriad a number of reasons. 20 Q. Like in this case what was the reason? 21 A. There would always be a reason listed 22 here. It's other, other, credentials investigation, 23 credentials investigation, credentials 24 investigation, other. 25 Q. What does release date mean?</p>

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69	<p>1 A. The flag was removed.</p> <p>2 Q. So does the applicant restriction date</p> <p>3 column mean the date it was flagged?</p> <p>4 A. The first column would be the date it was</p> <p>5 flagged, yes.</p> <p>6 Q. Ms. Sherlock?</p> <p>7 A. Shirley Williams, yes.</p> <p>8 Q. So I see that on Exhibit 52, the last</p> <p>9 entry but the earliest in time entry is there was a</p> <p>10 flag placed on 8/14/2000 for other reasons; is that</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. What is the level? What's the series</p> <p>14 of --</p> <p>15 A. Four.</p> <p>16 Q. Is that bad?</p> <p>17 A. The number doesn't -- it's not on a grade.</p> <p>18 It's what can be done with the applicant record</p> <p>19 based on the restriction and who can see it.</p> <p>20 Q. What does level four mean?</p> <p>21 A. I don't know off the top of my head what</p> <p>22 that would be.</p> <p>23 Q. Would your answer be the same for level</p> <p>24 three?</p> <p>25 A. Yes.</p>	7
70	<p>1 Q. Okay. So let's help me with this. On</p> <p>2 August 14, 2000 for some other reason Akoda's file,</p> <p>3 if you will, was flagged. Is that the way to say</p> <p>4 it?</p> <p>5 A. The computer record would have been</p> <p>6 flagged.</p> <p>7 Q. Meaning what? If somebody tried to access</p> <p>8 it?</p> <p>9 A. If they accessed it.</p> <p>10 Q. What would happen? Things would burn?</p> <p>11 A. Depends on what the level was, so, yeah.</p> <p>12 Q. So --</p> <p>13 A. So in some cases it may say you can see</p> <p>14 this but not see that.</p> <p>15 Q. Okay. So that flag, the other reason was</p> <p>16 under the comments section, because the comment</p> <p>17 section explains what other means or what CREDS</p> <p>18 investigation means?</p> <p>19 A. It could add -- it would be reason.</p> <p>20 There's reasons -- there was a whole menu of level</p> <p>21 three means this, level four means this.</p> <p>22 Q. On August 14, 2000 Akoda's computer</p> <p>23 program was flagged by Ms. Williams?</p> <p>24 A. That's what that would mean.</p> <p>25 Q. And she or someone else entered a comment</p>	72
	<p>1 because a duplicate record examinee barred under</p> <p>2 other number. Is that what it says?</p> <p>3 A. That's what it says.</p> <p>4 Q. And do you know why it was released?</p> <p>5 A. I don't.</p> <p>6 Q. So is this examinee barred under other</p> <p>7 number is that a reference to Akoda being the</p> <p>8 examinee?</p> <p>9 A. I don't know.</p> <p>10 Q. And is the other number the Igberase</p> <p>11 number we've been talking about all day?</p> <p>12 A. I don't know.</p> <p>13 Q. You just don't know what this means?</p> <p>14 A. Not on this one, no.</p> <p>15 Q. The one immediately above it, the next</p> <p>16 date, August 17, 2000, reason for flag, abbreviation</p> <p>17 for credentials is CREDS, hyphen, invest. Does that</p> <p>18 stand for investigation?</p> <p>19 A. Yes.</p> <p>20 Q. So there's a credential investigation</p> <p>21 going on, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And it was released on August 30 by you?</p> <p>24 A. Yes.</p> <p>25 Q. And the comment says investigation of</p>	

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<p>73</p> <p>1 restriction.</p> <p>2 Q. Do you know why it was released?</p> <p>3 A. I don't know, but it was restricted again</p> <p>4 the same day.</p> <p>5 Q. There you go.</p> <p>6 A. It's chronological from the bottom to the</p> <p>7 top.</p> <p>8 Q. Do you know why it was flagged -- why it</p> <p>9 was released and then flagged again?</p> <p>10 A. I don't know.</p> <p>11 Q. But the comment is the same thing?</p> <p>12 A. Yes.</p> <p>13 Q. So it was re-flagged on the same day and</p> <p>14 released on October 9, 2006, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And re-flagged the same day?</p> <p>17 A. Correct.</p> <p>18 Q. And then the October 9, 2006 re-flagging</p> <p>19 is released February 20, 2007, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Do you know why?</p> <p>22 A. No.</p> <p>23 Q. Then on February 27 it was reinstated, the</p> <p>24 flag that is, February 20, 2007?</p> <p>25 A. Yes, it was released on February 20, 2007</p>	<p>75</p> <p>1 Q. Yes.</p> <p>2 A. I don't think so.</p> <p>3 Q. So am I to understand that this flagging</p> <p>4 is just for internal purposes only, to restrict</p> <p>5 certain people's access to the file?</p> <p>6 MS. MCENROE: Objection to form.</p> <p>7 A. Yes, yes.</p> <p>8 Q. Why? Why is ECFMG restricting personnel's</p> <p>9 access to the computer record of this applicant?</p> <p>10 MS. MCENROE: Objection to form.</p> <p>11 A. Of course it would be for different</p> <p>12 things, but usually there would be a note about --</p> <p>13 for this person to refer to the restricter.</p> <p>14 Q. It's not on here.</p> <p>15 A. It may have been at the bottom of the</p> <p>16 computer screen during the time it was restricted.</p> <p>17 Q. But you've told me everything that you</p> <p>18 know about this?</p> <p>19 A. Yes.</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 (Exhibit No. 53 marked for</p> <p>22 identification.)</p> <p>23 A. I have reviewed the document.</p> <p>24 Q. So it looks to me that Exhibit 53 consists</p> <p>25 of three pages. Is that what you have?</p>
<p>74</p> <p>1 and the same date it was flagged again.</p> <p>2 Q. Flagged again?</p> <p>3 A. Yes.</p> <p>4 Q. And the last entry is it was released on</p> <p>5 September 13, 2011?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know why?</p> <p>8 A. No.</p> <p>9 Q. So from February 20, 2007 to September 10,</p> <p>10 2011 this program remained flagged?</p> <p>11 A. This applicant's computer record was</p> <p>12 flagged, yes.</p> <p>13 Q. So if in the period from February 20, 2007</p> <p>14 to September 10, 2011 an applicant, any applicant's</p> <p>15 file had been flagged, what information would ECFMG</p> <p>16 according to its practices and procedure have</p> <p>17 provided to any residency program to which the</p> <p>18 applicant was applying?</p> <p>19 MS. MCENROE: Objection to form.</p> <p>20 A. I really don't know. I don't recall.</p> <p>21 Q. Do you know whether any of the information</p> <p>22 about this flagging would have been provided to any</p> <p>23 other organization about this applicant?</p> <p>24 MS. MCENROE: Objection to form.</p> <p>25 A. The flagging of the record?</p>	<p>76</p> <p>1 A. Yes.</p> <p>2 Q. Tell me what is this three-page document.</p> <p>3 A. Actually, I don't know.</p> <p>4 Q. That hurts.</p> <p>5 A. And --</p> <p>6 Q. You don't know?</p> <p>7 A. I'm not familiar with these documents.</p> <p>8 Q. But does it appear to you to be some kind</p> <p>9 of a screenshot of the ECFMG computer system for</p> <p>10 Akoda?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 A. That's what it appears to be.</p> <p>13 Q. But you're not familiar with --</p> <p>14 A. With these screens or this program.</p> <p>15 Q. So you can't interpret it for us?</p> <p>16 A. Not definitively, yeah, you know.</p> <p>17 Q. So just a couple of general questions on</p> <p>18 the first page which is Bates 0000594. What does</p> <p>19 Token ID mean?</p> <p>20 A. When an individual applied to be an ECFMG</p> <p>21 participate in ERAS, they received a token, a</p> <p>22 permission to submit documents, and so that's what</p> <p>23 the token -- each one had a unique identification</p> <p>24 number.</p> <p>25 Q. You don't -- I take it sitting here today,</p>

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<p>77</p> <p>1 because you told me you didn't participate in or 2 have any knowledge of Akoda applying to Howard 3 University for a residency program, you don't know 4 whether he even completed that program? 5 A. I have no knowledge. 6 Q. Do you know whether he was ever licensed 7 by the Maryland Board of Physicians? 8 A. No, I do not know. 9 Q. Do you know whether ECFMG provided any 10 documentation to the Maryland Board of Physicians in 11 connection with any application Akoda may have 12 made -- 13 A. I have no knowledge of that. 14 Q. That's beyond your scope of your duties at 15 the time? 16 MS. MCENROE: Objection to form. 17 A. It would not necessarily have been beyond 18 the scope, but it could happen and I would have no 19 knowledge. 20 Q. Do you remember anything at all about 21 Akoda after the December 2000 period we talked about 22 in detail? 23 A. No. 24 Q. Do you know anything about how, if at all, 25 ECFMG assists in a graduate of a residency program</p>	<p>79</p> <p>1 Q. You don't know whether his certification 2 was ever revoked by ECFMG? 3 A. I think I was told it was, yes. 4 MR. VETTORI: Give me five minutes to 5 talk to these people. 6 MS. MCENROE: Take a quick break. 7 (Recess taken at 3:05 p.m.) 8 (Back on the record at 3:10 p.m.) 9 CROSS-EXAMINATION 10 BY MR. CERYES: 11 Q. Mr. Kelly, my name is Brent Ceryes. I 12 represent the plaintiffs in this as well. I 13 promised your counsel I will be as efficient as 14 possible and avoid going over material we already 15 discussed, and I promised to do that. 16 I think you have your copies of your 17 exhibits there. I want to run through just a few of 18 these exhibits very briefly. 19 First of all, if I could direct your 20 attention to Exhibit No. 2. I want to confirm 21 something that I think is fairly obvious. This is a 22 form that, generally speaking, is completed by the 23 applicant, not by the ECFMG, correct? 24 A. Correct. 25 Q. And the potential exception may be these</p>
<p>78</p> <p>1 obtaining privileges at a hospital, for example? 2 MS. MCENROE: Objection to form. 3 A. No. 4 Q. You don't have anything to do with that? 5 A. I don't know that it is something that we 6 did -- ECFMG did. 7 Q. You don't know whether ECFMG provides 8 documentation or other information at the request of 9 an IMG when he or she applies to a hospital for 10 privileges? 11 A. We did provide an ECFMG status report. 12 Either the program or the hospital or the candidate 13 would request from ECFMG that we send a report of 14 their status with us. 15 Q. Meaning whether they were certified? 16 A. Certified, right. 17 Q. You don't have any personal knowledge 18 whether that happened with Akoda? 19 A. That is correct. 20 Q. And after you left in 2015, you don't know 21 what, if anything, happened with Akoda? 22 A. That is correct. 23 Q. You don't know anything about his plea 24 agreement? 25 A. I have no knowledge of that.</p>	<p>80</p> <p>1 boxes in which it's indicated that the applicant 2 should not write in this space and that's for office 3 use only? 4 A. Correct. 5 Q. Now, if we turn to the second-to-the-last 6 page of that exhibit, Bates stamp 157? 7 A. I see it. 8 Q. We have the section here which requests a 9 certification from medical school official regarding 10 the photograph that is included as part of the 11 application. To your understanding, Mr. Kelly, what 12 is the purpose of having a medical school official 13 certify that the photograph, signature, and 14 information on the form accurately applies to the 15 individual named above? 16 MS. MCENROE: Objection to form. 17 A. My recollection it was to help confirm 18 this was the individual who went to that medical 19 school. 20 Q. Now, in this particular application on 21 behalf of Igberase, there is no certification from a 22 medical school official, correct? 23 A. That is correct. 24 Q. However, there is an option as I 25 understand it that there would be a notarized -- a</p>

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<p>8</p> <p>1 signature from a Notary and an explanation as to why</p> <p>2 the form could not be signed in the presence of a</p> <p>3 medical school dean; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. Those are two separate options that the</p> <p>6 applicant can select in completing this</p> <p>7 application?</p> <p>8 A. Yes.</p> <p>9 Q. On this particular application there's no</p> <p>10 explanation provided at all, correct?</p> <p>11 A. On this form, that is correct.</p> <p>12 Q. With respect to this form, it would not</p> <p>13 represent a completed application on behalf of</p> <p>14 Igberase?</p> <p>15 MS. MCENROE: Objection to form.</p> <p>16 A. Yeah, I don't know that I would say -- all</p> <p>17 the information is not on this form, yes.</p> <p>18 Q. What kinds of explanations are deemed</p> <p>19 acceptable on behalf of an applicant in failing to</p> <p>20 provide a signature of a medical school official?</p> <p>21 MS. MCENROE: Objection.</p> <p>22 A. The most common one was they were no</p> <p>23 longer in the country where they went to medical</p> <p>24 school and could not go to the dean's office.</p> <p>25 Q. And was that fact alone considered an</p>	<p>83</p> <p>1 certification rather than the school, yes.</p> <p>2 Q. In terms of whether the individual</p> <p>3 pictured is in fact the person signing the</p> <p>4 application, is that also a role the Notary plays in</p> <p>5 this instance?</p> <p>6 A. Yes.</p> <p>7 Q. Now, how does ECFMG determine from which</p> <p>8 schools they will accept medical degrees?</p> <p>9 MS. MCENROE: Objection to form.</p> <p>10 A. I can state going back to what the</p> <p>11 requirement was when I was there, and it had to be a</p> <p>12 medical school that was recognized by the</p> <p>13 appropriate agency in the country where the school</p> <p>14 was located, which was a ministry of health or a</p> <p>15 licensing board and also list it in either -- at</p> <p>16 this period of time I think it was World Director of</p> <p>17 Medical Schools which was published and maintained</p> <p>18 by the World Health Organization and later it was</p> <p>19 the International Medical Education Director, but at</p> <p>20 this period I believe it was World Director of</p> <p>21 Medical Schools.</p> <p>22 Q. From the period of time from approximately</p> <p>23 1990 to 2000, was there any process by which ECFMG</p> <p>24 would develop relationships with these medical</p> <p>25 schools in order to make sure that they had an open</p>
<p>82</p> <p>1 acceptable reason for not having a signature of a</p> <p>2 medical school official, that they are now outside</p> <p>3 of the country for which they graduated medical</p> <p>4 school?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 A. For not having the signature on the</p> <p>7 application, yes.</p> <p>8 Q. Approximately what percentage of</p> <p>9 applicants apply for ECFMG certification while still</p> <p>10 in the country where they went to medical school?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 A. I do not know.</p> <p>13 Q. Is it most students?</p> <p>14 MS. MCENROE: Objection to form.</p> <p>15 A. Most individuals who are still students,</p> <p>16 but with respect to graduates I don't know.</p> <p>17 Q. To the extent that applicants are</p> <p>18 permitted to submit an application without having a</p> <p>19 signature of a medical school official verifying</p> <p>20 that they are in fact the person submitting the</p> <p>21 application, that would reduce the credibility of</p> <p>22 that application in terms of, is this person who</p> <p>23 they say they are?</p> <p>24 MS. MCENROE: Objection to form.</p> <p>25 A. There is a Notary making that</p>	<p>84</p> <p>1 line of communication with those institutions?</p> <p>2 MS. MCENROE: Objection to form.</p> <p>3 A. In some cases, yes.</p> <p>4 Q. Do you know if ECFMG had such a</p> <p>5 relationship with the University of Ibadan College</p> <p>6 of Medicine?</p> <p>7 A. I do not know.</p> <p>8 Q. What about the University of Benin?</p> <p>9 A. I do not know.</p> <p>10 Q. I assume there are cases in which ECFMG</p> <p>11 determines an applicant has engaged in some fraud in</p> <p>12 the course of submitting an application? Fair?</p> <p>13 A. Yes, there were instances.</p> <p>14 Q. Can you provide me some estimate in terms</p> <p>15 of how frequent an occurrence that was, let's say</p> <p>16 between 1990 and 2000, maybe as a percentage of</p> <p>17 total applicants?</p> <p>18 MS. MCENROE: Objection to form.</p> <p>19 A. I really don't have any idea how many were</p> <p>20 done, but just to let you know that we always</p> <p>21 reported and there is notification so it could be</p> <p>22 reconstructed.</p> <p>23 Q. And as I understand it, one of the</p> <p>24 principle goals at ECFMG is to make sure or to do --</p> <p>25 is to verify that those people who are applying to</p>

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<p>85</p> <p>1 practice medicine here in the United States have 2 authentic credentials when they come here to 3 practice medicine. Fair? 4 A. To assure they're competent physicians, 5 yes. 6 Q. And in your role with ECFMG you understood 7 that one of the -- well, that residency programs and 8 state medical boards rely upon ECFMG to conduct that 9 verification of foreign medical graduate credentials 10 prior to those individuals coming here to practice 11 medicine. Fair? 12 MS. MCENROE: Objection to form. 13 A. That was one of the components of ECFMG 14 certification, yes. 15 Q. And would you agree that ECFMG plays an 16 important role in public health by verifying that 17 physicians who come here to practice medicine have 18 the necessary and requisite credentials to do so? 19 MS. MCENROE: Objection to form. 20 A. That is part of it, to protect the 21 American public, yes. 22 Q. And another role that ECFMG plays is 23 detecting or endeavoring to detect when an 24 individual lacks the -- well, when an individual has 25 not been honest in presenting their identity or</p>	<p>87</p> <p>1 A. It was standing committee of the ECFMG at 2 Board of Trustees for the specific charge of 3 reviewing policies and procedures, making 4 recommendations to the Board for any changes or 5 modifications to the certification requirements, and 6 to review allegations for irregular behavior. 7 Q. And who, if any, at ECFMG had the ability 8 to elevate potential suspicious conduct such that it 9 would be considered by the credentialing 10 committee? 11 A. It was generally a group, a review of a 12 group recommendation or decision of staff. 13 Q. Sure. If you in particular -- and did you 14 hold the same position from approximately 1991 until 15 your retirement? 16 A. No. 17 Q. Can you describe how your position with 18 ECFMG changed during that period of time? 19 MS. MCENROE: Objection to form. 20 Calls for a narrative over 38 years. 21 A. And I'm not sure of the exact dates for 22 some of these, but around 1991 I think I was the 23 manager of the information services department. I 24 was not involved in credentials, but around 1992 or 25 1993 I became a manager of the credentials</p>
<p>86</p> <p>1 credentials. 2 MS. MCENROE: Objection to form. 3 Q. Fair? 4 A. Yes, that -- yes. 5 Q. Were there occasions in your experience 6 with ECFMG where you found that certain medical 7 schools -- well, strike that. 8 Were there occasions when you found 9 that certain medical schools were not credible in 10 terms of the process of verifying the credentials of 11 foreign medical graduates. 12 MS. MCENROE: Objection to form. 13 A. Of their own graduates? 14 Q. Yes. 15 A. I don't recall such an instance. 16 Q. Okay. Do you have a recollection of ever 17 finding that the University of Ibadan in particular 18 had been in any way fraudulent or misleading in 19 response to requests from ECFMG? 20 A. I have no knowledge of that. 21 Q. Same question with regard to the 22 University of Benin? 23 A. I have no knowledge of that. 24 Q. What is the credentialing committee at 25 ECFMG? What was it when you worked there?</p>	<p>88</p> <p>1 department for a period of time, and then I became 2 director of the credentials and records services, 3 and then at the time I retired, I was associate vice 4 president for operations areas of credentials and 5 information services, records-keeping, and a number 6 of other areas. 7 Q. Okay. So from the time beginning when you 8 were the manager of the credentialing department 9 through until your retirement, if you had a 10 particular concern about an applicant, would you 11 have the ability to elevate that concern to the 12 credentialing committee? 13 A. By myself solely? So long as nobody 14 objected, I think I might have. 15 Q. Okay. What was Stephen Seeling's role 16 with ECFMG? 17 A. He was the vice president for operations. 18 Q. If Mr. Seeling had a concern about a 19 potential applicant, would he also have the ability 20 to independently bring that before the credentialing 21 committee? 22 MS. MCENROE: Objection to form. 23 A. When you say independently, he would have 24 done that in conjunction with me. I would have been 25 part of that. I don't know that he would take an</p>

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89	<p>1 independent action.</p> <p>2 Q. Generally speaking, if Mr. Seeling had a</p> <p>3 concern about an applicant and expressed that to</p> <p>4 you, would you tend to escalate that to the</p> <p>5 credentialing committee?</p> <p>6 MS. MCENROE: Objection to form.</p> <p>7 A. Yes.</p> <p>8 Q. Is there anyone else who was -- during the</p> <p>9 period from approximately, let's say, 1990 to 2006,</p> <p>10 during that window of time, was there anyone else at</p> <p>11 ECFMG who was actively involved in the decision to</p> <p>12 elevate potential suspicious behavior to the</p> <p>13 credentialing committee?</p> <p>14 A. Mr. Seeling's predecessor Marie Shafron</p> <p>15 who was vice president of operations prior to him.</p> <p>16 Q. Do you recall when that transition took</p> <p>17 place between Shafron and Seeling?</p> <p>18 A. I think she left around 1998.</p> <p>19 Q. And under what criteria were you to</p> <p>20 determine that an issue should be brought before the</p> <p>21 credentialing committee?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. There are a couple criteria or factors,</p> <p>24 and one was something that fell under our definition</p> <p>25 of irregular behavior, an action or attempted</p>	9
90	<p>1 action, that could or would subvert the ECFMG</p> <p>2 certification process, et cetera, and so it had to</p> <p>3 be something that directly concerned us. And then</p> <p>4 you would have to have enough information to take to</p> <p>5 the credentials committee for them to be able to</p> <p>6 make an informed decision. And at due notice you</p> <p>7 would follow procedures, send an allegation to the</p> <p>8 candidate, put them on notice, give them an</p> <p>9 opportunity to respond.</p> <p>10 Q. Okay. And were these criteria set forth</p> <p>11 in any written policies or protocols maintained by</p> <p>12 ECFMG?</p> <p>13 A. There were policies and procedures</p> <p>14 regarding irregular behavior written, yes.</p> <p>15 Q. And where were they maintained?</p> <p>16 A. At different times at different places,</p> <p>17 and in the earlier periods they were hard copy typed</p> <p>18 printout. Later they were actually in the ECFMG</p> <p>19 information booklet and on the website.</p> <p>20 Q. Okay. And so were -- was this typically a</p> <p>21 decision -- strike that.</p> <p>22 Unless you or Mr. Seeling or Ms.</p> <p>23 Shafron brought an issue to the credentialing</p> <p>24 committee, they would have no way to address it. Is</p> <p>25 that fair?</p>	92
	<p>1 MS. MCENROE: Objection to form.</p> <p>2 A. An allegation of irregular behavior, yeah,</p> <p>3 but it would go through staff first. It's possible</p> <p>4 the CEO, something might originate with them, but</p> <p>5 very, very unlikely.</p> <p>6 Q. Who was the CEO during the period of 1990</p> <p>7 to 2006?</p> <p>8 A. They were a couple of different ones.</p> <p>9 Q. Okay. Can you do your best?</p> <p>10 A. Yeah, yeah, and one of James Hallock,</p> <p>11 H-A-L-L-O-C-K, MD. One, because it was in the</p> <p>12 proceedings there, was Nancy Gary, G-A-R-Y, MD. And</p> <p>13 there may have been Marjorie Wilson, W-I-L-S-O-N,</p> <p>14 MD. Those were the three names, I think.</p> <p>15 Q. All right. Okay. Let's go back to the</p> <p>16 exhibits, if you would?</p> <p>17 A. Sure.</p> <p>18 Q. If you would go to No. 22 -- 23.</p> <p>19 A. Okay.</p> <p>20 Q. Now, you reviewed this document with</p> <p>21 Mr. Vettori, and in the section four, as you</p> <p>22 previously addressed, this individual applying under</p> <p>23 the name Akoda did not enter a US Social Security</p> <p>24 number, correct?</p> <p>25 A. Yes.</p>	

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<p style="text-align: right;">93</p> <p>1 A. And it was one of the items that would be 2 used if we had for some individual to check to see 3 if they were potentially duplicate records. 4 Q. Was there any effort made to investigate 5 the owner of the Social Security number? 6 MS. MCENROE: Objection. 7 A. I'm not sure what you mean by -- 8 Q. Was there any -- I'll rephrase the 9 question and ask a new question. 10 Was there any effort made in the 11 period of time between 1990 and 2006 to run the 12 Social Security number against any databases to find 13 out any information that you might be able to about 14 a particular applicant? 15 MS. MCENROE: Objection to form. 16 A. Do you mean databases outside of ECFMG? 17 Q. Correct. 18 A. I have no knowledge that we did that. 19 Q. Presumably if that was something ECFMG 20 did, you would have knowledge of it in your role 21 within the organization? 22 MS. MCENROE: Objection to form. 23 A. Yes. 24 Q. All right. I think when asked about the 25 ECFMG role in the ERAS system you referred to it as</p>	<p style="text-align: right;">95</p> <p>1 them, but yes. 2 Q. And ECFMG undertook the role to provide 3 some verification with respect to those letters of 4 recommendation? 5 A. No. 6 Q. In this particular case you reviewed with 7 Mr. Vettori a series of letters that you wrote in 8 response to an application written by Akoda asking 9 those individuals to verify that the letters of 10 recommendation were authentic. Do you recall 11 that? 12 A. Yes. 13 Q. Is that not something that you would do in 14 the normal course? 15 A. That was not a routine procedure. 16 Q. And why is it that you elected to do it in 17 this case? 18 A. My belief is that because he was otherwise 19 being investigated. 20 Q. And so safe to say that at that point in 21 2006 you had some concerns about Akoda's 22 credibility? 23 MS. MCENROE: Objection to form. 24 A. Yes. 25 Q. And so under these circumstances you</p>
<p style="text-align: right;">94</p> <p>1 a dean station? 2 A. Dean's office. 3 Q. Dean's office. So what do you mean by 4 that? 5 A. It's the facilitator for the process to 6 gather together all the components of an application 7 for a residency program and submit them on behalf of 8 the graduate. Unlike in the US, the University of 9 Pennsylvania School of Medicine, that dean's office, 10 would gather together all the documents for its 11 graduates to submit to the residency programs. 12 ECFMG did that for international medical 13 graduates. 14 Q. And how was ECFMG compensated for that 15 effort? 16 A. There was a fee for the ERAS token, and my 17 recollection is that that's how it was 18 compensated. 19 Q. That was paid by the applicant? 20 A. By the -- yes. 21 Q. And so is it generally the fact that 22 residency programs require letters of reference as 23 part of an application? 24 MS. MCENROE: Objection to form. 25 A. Letters of recommendation they called</p>	<p style="text-align: right;">96</p> <p>1 thought it was important to reach out to those 2 individuals from whom Akoda had offered letters of 3 recommendation to find out if they were in fact 4 authentic? 5 MS. MCENROE: Objection to form. 6 A. That is correct. 7 Q. And as far as what is reflected in the 8 record and to the best of your recollection, none of 9 those individuals responded to your letters, 10 correct? 11 A. That is correct. 12 Q. In other words, your concerns regarding 13 Akoda's credibility were not alleviated by that 14 process that you went through in sending out these 15 letters to those individuals? 16 MS. MCENROE: Objection to form. 17 A. We did not receive verification of those 18 letters of recommendation. 19 Q. Did you -- if you would turn to Exhibit 20 51. 21 A. Yes. 22 Q. First of all -- actually, if we would go 23 to the actual letter of reference reportedly from a 24 Charles Francis, when -- actually, I'm going to step 25 back just a minute.</p>

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50 (197 to 200)

<p>97</p> <p>1 At some point you received notice</p> <p>2 that Akoda sought to use ECFMG's ERAS service for</p> <p>3 some purpose, correct, in 2006.</p> <p>4 A. At that time I was obviously aware that he</p> <p>5 was participating in the ERAS, yes.</p> <p>6 Q. I assume that ECFMG would have some</p> <p>7 knowledge of why the applicant was trying to use</p> <p>8 ERAS as between applying to different residency</p> <p>9 programs?</p> <p>10 A. Yes.</p> <p>11 MS. MCENROE: Objection.</p> <p>12 Q. So they would fill out some application</p> <p>13 and presumably as part of that application would</p> <p>14 notify ECFMG where they sought to obtain a</p> <p>15 residency?</p> <p>16 MS. MCENROE: Objection to form.</p> <p>17 A. I'm trying to remember where the</p> <p>18 designation of -- where they were applying comes in.</p> <p>19 Yes, we did have that information of the</p> <p>20 institutions to which they were applying, yes.</p> <p>21 Q. In review of the file -- is there an</p> <p>22 application that Akoda would have to have submitted</p> <p>23 to ECFMG to receive this service?</p> <p>24 A. I don't know that it was an application.</p> <p>25 There was a request for a token. I don't recall</p>	<p>99</p> <p>1 A. I remember seeing that ERAS transmittal</p> <p>2 sheet we saw in these materials.</p> <p>3 Q. Okay. Anything else?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Now, getting back to this letter of</p> <p>6 reference -- well -- so still not there yet.</p> <p>7 When you would receive a request such</p> <p>8 as this or when your office would receive a request</p> <p>9 such as this, would you then go back and review the</p> <p>10 applicant's file?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 What kind of such as this?</p> <p>13 A. That's what I'm trying to say.</p> <p>14 Q. When an ERAS request for an individual</p> <p>15 seeking to apply for residency programs, how would</p> <p>16 you go about processing that? Can you walk me</p> <p>17 through the steps?</p> <p>18 MS. MCENROE: Objection for form.</p> <p>19 A. I want to clarify that. That was not in</p> <p>20 my particular area of operations, so I don't know</p> <p>21 that I could speak to it.</p> <p>22 Q. At some point you became aware that this</p> <p>23 individual named Akoda was seeking to use the ERAS</p> <p>24 services?</p> <p>25 A. In this particular case, yes.</p>
<p>98</p> <p>1 what that entailed.</p> <p>2 Q. Do you write for it or is it something you</p> <p>3 do online?</p> <p>4 A. I know at some point it was online. At</p> <p>5 this point I don't know whether it was a written</p> <p>6 request or not.</p> <p>7 Q. Since the ultimate purpose here is to</p> <p>8 actually send documents out to different residency</p> <p>9 programs, at some point ECFMG would have to know</p> <p>10 where they're sending these materials, correct?</p> <p>11 A. The documents, yes, yes.</p> <p>12 Q. That would have to be included within the</p> <p>13 file somewhere in order for you as ECFMG to know</p> <p>14 where to send these materials?</p> <p>15 MS. MCENROE: Objection to form.</p> <p>16 Asked and answered.</p> <p>17 A. The applicant would have provided us with</p> <p>18 information as to which programs he or she was</p> <p>19 applying to, yes.</p> <p>20 Q. Based on your review of the materials in</p> <p>21 preparation for the deposition today, have you seen</p> <p>22 any application or any other documentation submitted</p> <p>23 by Akoda, by an individual named Akoda, related to</p> <p>24 this application for ERAS services?</p> <p>25 MS. MCENROE: Objection to form.</p>	<p>200</p> <p>1 Q. How did that come to your attention?</p> <p>2 A. In looking at the totality of documents it</p> <p>3 most likely was through the flag.</p> <p>4 Q. And so because the existence of this flag</p> <p>5 you believe that someone processing ERAS</p> <p>6 applications brought this to your attention?</p> <p>7 A. To someone's attention, whether it was me</p> <p>8 particularly, but someone in my area, yes.</p> <p>9 Q. But at some point they brought this to</p> <p>10 your attention as well because you're the one who</p> <p>11 wrote the letters?</p> <p>12 A. Yes.</p> <p>13 Q. Now, I presume that once this was brought</p> <p>14 to your attention, you would make an effort to</p> <p>15 review this applicant's file?</p> <p>16 MS. MCENROE: Objection to form.</p> <p>17 A. Yes.</p> <p>18 Q. And we've already addressed that</p> <p>19 presumably after you reviewed this file of Akoda,</p> <p>20 you had some concerns regarding credibility which is</p> <p>21 what prompted you to send these letters?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. Yes.</p> <p>24 Q. Now, if we go to this letter from Charles</p> <p>25 A. Francis, MD, reportedly from the First Medical</p>

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51 (201 to 204)

20	<p>1 Operations Squadron, you of course would have</p> <p>2 reviewed this letter of reference prior to writing</p> <p>3 this letter to Charles A. Francis, MD, correct?</p> <p>4 MS. MCENROE: Objection to form.</p> <p>5 A. I don't know -- I don't know that I</p> <p>6 personally may have reviewed it, but someone would</p> <p>7 have reviewed it.</p> <p>8 Q. Okay. You, I'm sure -- well. Had you</p> <p>9 reviewed this letter of reference, can we agree that</p> <p>10 this document would raise red flags for you based</p> <p>11 upon your years of experience in terms of the</p> <p>12 credibility assigned to this particular letter of</p> <p>13 reference?</p> <p>14 MS. MCENROE: Objection to form.</p> <p>15 Q. Is it what it purports to be?</p> <p>16 MS. MCENROE: Objection.</p> <p>17 A. I've seen all kinds of letters of</p> <p>18 recommendation, and I can't say that there is any</p> <p>19 one that I would be more concerned about this than</p> <p>20 maybe other ones that turned out to be legitimate.</p> <p>21 Q. Did you make any effort or did anyone in</p> <p>22 your office make any effort to confirm that Charles</p> <p>23 A. Francis is in fact a licensed medical</p> <p>24 physician?</p> <p>25 A. Verifying someone's licensure status would</p>	203
202	<p>1 not have been something we would have done.</p> <p>2 Q. Okay. Certainly you would have the</p> <p>3 ability to do that if you wanted to. Someone in</p> <p>4 Virginia in 2006, you could have determined whether</p> <p>5 they had a -- there's a licensed physician by the</p> <p>6 name of Charles A. Francis as of that point in</p> <p>7 time?</p> <p>8 MS. MCENROE: Objection.</p> <p>9 A. I'm sure there was a process, yes.</p> <p>10 Q. Did you make any effort to find out if</p> <p>11 Charles A. Francis actually existed as a person?</p> <p>12 A. By writing to him would be the only way I</p> <p>13 see here.</p> <p>14 Q. Your effort in that regard was not -- did</p> <p>15 not neither confirm nor deny that he was an existing</p> <p>16 person?</p> <p>17 A. That is correct.</p> <p>18 Q. At the top of Exhibit 51 there are some</p> <p>19 notes. Is it your handwriting?</p> <p>20 A. Part of it is my handwriting, I believe,</p> <p>21 yes.</p> <p>22 Q. Can you read for me what's written up</p> <p>23 there?</p> <p>24 A. Okay. The part that's in my handwriting</p> <p>25 is, "Igberase transcript, question mark," and the</p>	204
	<p>1 letters SSS.</p> <p>2 Q. Can you read what's below that?</p> <p>3 A. I believe it says, "Why some things are</p> <p>4 suspicious or suspicious." And that's in a</p> <p>5 different handwriting.</p> <p>6 Q. All right. This is a letter of</p> <p>7 recommendation purportedly on behalf of Akoda and</p> <p>8 not Igberase, correct?</p> <p>9 MS. MCENROE: Objection to form.</p> <p>10 A. Correct.</p> <p>11 Q. What were you indicating by writing</p> <p>12 "Igberase transcript, question mark"?</p> <p>13 A. I don't know.</p> <p>14 Q. Fair to say at this point you had some</p> <p>15 concerns that Igberase and Akoda maybe have been one</p> <p>16 and the same person?</p> <p>17 MS. MCENROE: Objection.</p> <p>18 A. Based on the other documents, yes.</p> <p>19 Q. Do you know what transcript you're</p> <p>20 referring to?</p> <p>21 A. No.</p> <p>22 Q. What does the SSS mean?</p> <p>23 A. I believe it referenced Stephen Seeling</p> <p>24 the vice president of operations.</p> <p>25 Q. And to what purpose or to what end?</p>	

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52 (205 to 208)

205	<p>1 of those elements of Doctor Akoda's background at 2 this point. Fair?</p> <p>3 MS. MCENROE: Objection to form.</p> <p>4 A. They were the items that were at question 5 in the investigation, yes.</p> <p>6 Q. And in particular as of 2006 you had seen 7 various dates of birth assigned to Doctor Akoda, the 8 individual named Doctor Akoda, correct?</p> <p>9 A. I think the -- I know -- I don't know 10 that -- it may have just been, you know, as part of 11 biographic data. I don't know that we were -- that 12 this means necessarily that we were questioning that 13 or who the medical school was as much to confirm who 14 Akoda was.</p> <p>15 Q. This is not a request that you typically 16 make to individuals submitting letters of 17 recommendation on behalf of applicants for ERAS 18 service, correct?</p> <p>19 MS. MCENROE: Objection to form.</p> <p>20 A. At that time that is correct.</p> <p>21 Q. Okay. So the letter from Phil 22 Robertson -- similar questions as before -- did you 23 make any effort to verify as to whether Phil 24 Robertson is in fact the name of a licensed 25 physician in the State of Maryland?</p>	207	<p>1 Q. And next to the receive date there is a 2 reference handwritten SH10-16. Do you know what 3 that is?</p> <p>4 A. I don't. That would have been in the ERAS 5 department.</p> <p>6 Q. Doctor, if you would go to Exhibit 25 -- I 7 mean, Mr. Kelly?</p> <p>8 A. Okay. I'm looking at Exhibit 25.</p> <p>9 Q. And this has been addressed before in Mr. 10 Vettori's questions. This is a medical degree of 11 some sort, a purported medical degree for Johnbull 12 Nosa Akoda. In your review of the medical chart, 13 you never received a medical degree in the name of 14 John Nosa Akoda, correct?</p> <p>15 MS. MCENROE: Objection to form.</p> <p>16 A. There is none in these records.</p> <p>17 Q. Okay. If we go to Exhibit 26. Despite 18 the fact that ECFMG had not received a medical 19 diploma in the name of John Nosa Akoda, it 20 nevertheless certified that John Nosa Akoda had 21 satisfied the requirements of ECFMG and could 22 proceed on with residency training. Fair?</p> <p>23 MS. MCENROE: Objection to form.</p> <p>24 A. And apply to residency training, yes.</p> <p>25 Q. Let's go to 41 -- actually, start with 42.</p>
206	<p>1 A. Other than sending a letter to a Phil 2 Robertson as shown here, not that I see.</p> <p>3 Q. Certainly if you want to confirm whether 4 there was a licensed medical doctors named Phil 5 Robertson, that's something you would have had the 6 ability to do in 2006?</p> <p>7 MS. MCENROE: Objection to form.</p> <p>8 A. There was a process in place to do that, 9 yes.</p> <p>10 Q. And there is a reference -- this is a 11 document from Maxicare, Incorporated. Did you make 12 any effort to investigate what Maxicare, 13 Incorporated is?</p> <p>14 A. I don't see that.</p> <p>15 Q. Again, that's something that you would 16 have done -- if that's something you did, it is 17 something you would have documented in the file?</p> <p>18 MS. MCENROE: Objection to form.</p> <p>19 A. That is correct.</p> <p>20 Q. There is also a telephone number indicated 21 here on this letter of recommendation. Had you made 22 that phone call to speak with the purported Phil 23 Robertson, that's something you would have 24 documented in the file?</p> <p>25 A. Yes.</p>	208	<p>1 Towards the lower part of the page there is 2 reference here -- this, by the way, is notes that 3 you took contemporaneous with your phone call with 4 Doctor McCorkel?</p> <p>5 A. Yes.</p> <p>6 Q. And you write, "While Akoda said he was 7 going to Nigeria, they have info he's in Maryland." 8 Is that something that you learned from Mr. 9 McCorkel -- Doctor McCorkel?</p> <p>10 A. Yes.</p> <p>11 Q. That was further evidence that Akoda or 12 this individual going by the name of Akoda was 13 misrepresenting certain facts about his background. 14 Fair?</p> <p>15 MS. MCENROE: Objection to form.</p> <p>16 A. I don't know that I would necessarily say 17 that, but...</p> <p>18 MS. MCENROE: Are you pretty close to 19 wrapping up?</p> <p>20 MR. CERYES: Yes.</p> <p>21 Q. Moving on to 41, there is a -- this is the 22 discussion that -- the memo you wrote to the file 23 regarding this Nigerian passport that you obtained 24 from this individual.</p> <p>25 What ability did you have in</p>

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53 (209 to 212)

209	<p>1 approximately 2000 to verify passports at ECFMG?</p> <p>2 MS. MCENROE: Objection to form</p> <p>3 Already covered this with co-counsel.</p> <p>4 A. When you say what ability, you mean?</p> <p>5 Q. What resources did you have at your</p> <p>6 disposal to verify the authenticity of this Nigerian</p> <p>7 passport?</p> <p>8 MS. MCENROE: Objection to form.</p> <p>9 A. I don't know that there were any in-house</p> <p>10 resources. Is that what you're referring to?</p> <p>11 Q. In-house or out of house.</p> <p>12 A. Right.</p> <p>13 Q. Any databases or other sources in which</p> <p>14 you could have verified?</p> <p>15 A. I don't recall any, no.</p> <p>16 Q. Now, moving on to 48 -- actually, go to</p> <p>17 47, if you would.</p> <p>18 A. Okay.</p> <p>19 Q. Do you know when this document was</p> <p>20 prepared?</p> <p>21 A. No.</p> <p>22 Q. Do you know if it was before or after</p> <p>23 2006?</p> <p>24 A. No.</p> <p>25 Q. All right. So on 48 you write that, "The</p>	2
2 0	<p>1 memorandum was being written separately since I did</p> <p>2 not think it should be made part of the official</p> <p>3 file."</p> <p>4 If not in the official file, where</p> <p>5 was this document located?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay. What was your thinking or purpose</p> <p>8 in not including this within an official file on</p> <p>9 behalf of Akoda?</p> <p>10 MS. MCENROE: Objection to form.</p> <p>11 Covered extensively by co-counsel.</p> <p>12 A. Yeah, I don't know.</p> <p>13 Q. What is the significance of a document</p> <p>14 being inside the file versus outside the file?</p> <p>15 MS. MCENROE: Objection to form.</p> <p>16 Q. What are the criteria that would dictate</p> <p>17 whether a document goes in an applicant file versus</p> <p>18 outside a file?</p> <p>19 MS. MCENROE: Objection to form.</p> <p>20 A. I don't know.</p> <p>21 Q. Presumably on December 22, 2000 there was</p> <p>22 some purpose in not including this document within</p> <p>23 Akoda's file, correct?</p> <p>24 MS. MCENROE: Objection to form.</p> <p>25 A. Or an intention not to include it. It</p>	2 2
	<p>1 obviously was included.</p> <p>2 Q. Do you know if this was in fact within a</p> <p>3 file on behalf of an official file for Akoda versus</p> <p>4 kept somewhere else with ECFMG's records?</p> <p>5 MS. MCENROE: Objection to form.</p> <p>6 A. I don't know.</p> <p>7 Q. Is there any justification that you can</p> <p>8 think of as we sit here today as to why a document</p> <p>9 concerning a physician's credibility and honesty</p> <p>10 would not be included within their official file?</p> <p>11 MS. MCENROE: Objection to form.</p> <p>12 A. I don't know.</p> <p>13 Q. You conclude that in the conclusion of</p> <p>14 Paragraph No. 4 that you don't think this is enough</p> <p>15 for the committee.</p> <p>16 Help me understand in view of the</p> <p>17 various documents previously discussed why you did</p> <p>18 not believe that this was sufficient evidence to</p> <p>19 even raise before a credentialing committee.</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. Based on experience and working with the</p> <p>22 documents and presumably maybe talking with other</p> <p>23 people that, you know, there was a staff had to</p> <p>24 review all the materials that were part of the --</p> <p>25 that were the result of the investigation, and part</p>	

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54 (213 to 216)

<p style="text-align: right;">2 3</p> <p>1 MS. MCENROE: Objection to form.</p> <p>2 A. I don't know.</p> <p>3 Q. You've not seen any documentation in the</p> <p>4 file reflecting a decision one way or the other in</p> <p>5 that regard?</p> <p>6 A. I have not.</p> <p>7 Q. You've not seen any correspondence to any</p> <p>8 particular residency program regarding Akoda --</p> <p>9 well, strike that -- with the exception of the ERAS</p> <p>10 form that you previously alluded to?</p> <p>11 A. That is correct.</p> <p>12 Q. With respect to the levels of flags that</p> <p>13 we discussed that concept generally, I understand</p> <p>14 you might not have a recollection specifically of</p> <p>15 what the different levels mean. This is Exhibit 52.</p> <p>16 A. I have it.</p> <p>17 Q. What is the general concern that is being</p> <p>18 addressed through the use of flags on internal ECFMG</p> <p>19 servicers with regard to who can see what?</p> <p>20 MS. MCENROE: Objection to form.</p> <p>21 A. Well, it's not just who can see what.</p> <p>22 It's what you can do with the record, and that would</p> <p>23 vary based upon the reason behind it.</p> <p>24 Q. Certainly one of the purposes of the flags</p> <p>25 in situations like in 2006 when someone went to</p>	<p style="text-align: right;">2 5</p> <p>1 A. No. In some cases if there had been a</p> <p>2 finding of irregular behavior that we would tell the</p> <p>3 applicant their status report was annotated.</p> <p>4 Q. As of 2006 there had not been a finding of</p> <p>5 irregular behavior with respect to Akoda, correct?</p> <p>6 A. That is correct.</p> <p>7 Q. And so would it be your expectation in</p> <p>8 view of that that the status -- ECFMG status that</p> <p>9 ECFMG would send out would not contain any</p> <p>10 information about the various concerns that we've</p> <p>11 addressed previously?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. That is correct.</p> <p>14 Q. All right. In this particular case you</p> <p>15 made the decision in 2000 that this -- the Akoda</p> <p>16 matter should not proceed to the credentialing</p> <p>17 committee, correct?</p> <p>18 A. It was my belief that it should not at</p> <p>19 that time go to the credentialing committee, yes.</p> <p>20 Q. Did you -- and ultimately you were the one</p> <p>21 responsible for, following discussion with staff as</p> <p>22 to making that decision whether it should or should</p> <p>23 not. Fair?</p> <p>24 A. At that time, yes.</p> <p>25 Q. Would it have been reasonable for you to</p>
<p style="text-align: right;">2 4</p> <p>1 Akoda's file, there was presumably a flag that</p> <p>2 alerted them that they should take some further</p> <p>3 investigation on this case. Fair?</p> <p>4 A. They would need to check with the person</p> <p>5 who flagged it to see if they could proceed, yes,</p> <p>6 and what they can proceed with.</p> <p>7 Q. I think you mentioned another purpose is</p> <p>8 actually to hide certain information from certain</p> <p>9 staff at ECFMG?</p> <p>10 MS. MCENROE: Objection to form.</p> <p>11 A. That's -- not really not so much that. I</p> <p>12 think maybe I misspoke with that.</p> <p>13 Q. All right. Do you know what the range of</p> <p>14 levels is?</p> <p>15 MS. MCENROE: Objection --</p> <p>16 A. My recollection was there were five</p> <p>17 separate restriction levels.</p> <p>18 Q. You mentioned in your prior testimony that</p> <p>19 ECFMG would send a status report to individuals</p> <p>20 requesting a status report on someone's ECFMG</p> <p>21 certification; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Was that essentially a binary</p> <p>24 determination, either they're certified or not</p> <p>25 certified?</p>	<p style="text-align: right;">2 6</p> <p>1 have decided to the contrary, that let's have the</p> <p>2 credentialing committee look at this and see what</p> <p>3 they think?</p> <p>4 MS. MCENROE: Objection to form.</p> <p>5 A. When you say reasonable, based on the</p> <p>6 record, at the time I didn't think it was reasonable</p> <p>7 action to take at that time based on the information</p> <p>8 I had.</p> <p>9 Q. Certainly when we make decisions sitting</p> <p>10 like this, we look at the risks versus the benefits.</p> <p>11 Fair?</p> <p>12 MS. MCENROE: Objection to form.</p> <p>13 A. But you're looking at -- this decision not</p> <p>14 to provide it?</p> <p>15 Q. Right.</p> <p>16 A. Yes.</p> <p>17 Q. And so in this situation what were the</p> <p>18 risks or what were the potential bad outcomes or</p> <p>19 consequences that would be associated with bringing</p> <p>20 this issue to the credentialing committee for their</p> <p>21 consideration?</p> <p>22 MS. MCENROE: Objection to form.</p> <p>23 A. That there was not enough information for</p> <p>24 them to be make an informed decision.</p> <p>25 Q. Certainly that's a conclusion the</p>

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Conducted on August 20, 2019

55 (217 to 220)

<p>2 7</p> <p>1 credentialing committee could come to on their own 2 account, correct? 3 MS. MCENROE: Objection to form. 4 A. Yes. 5 MS. MCENROE: We've been going almost 6 an hour. You said you're going to be brief. 7 MR. CERYES: Yes. 8 Q. Does the credentialing committee meet on 9 some regular basis? 10 MS. MCENROE: Objection to form. 11 Q. Or did they? 12 A. At that time it varied according to this, 13 but I think for a long period there is no set 14 schedule. It was if there were just allegations for 15 it to review, you would set up a meeting, but at 16 some point we started having them in conjunction 17 with the periodic Board of Trustees meetings. 18 Q. When there would be a meeting, would 19 multiple issues typically be discussed at that 20 time? 21 A. Yes. 22 Q. Mr. Kelly, you mentioned that you had 23 given testimony on other cases in the past, 24 deposition testimony, correct? 25 A. Yes.</p>	<p>2 9</p> <p>1 ECFMG; is that correct? 2 A. Yes. 3 Q. Would that represent the majority if not 4 all of the cases in which you've given deposition 5 testimony or were they in other matters? 6 A. Those are some of the cases, yes. 7 Q. Have you given testimony in any other case 8 regarding -- strike that. 9 Have you given testimony in any case 10 wherein there was an allegation that ECFMG was in 11 some way negligent in its credentialing of a 12 physicians. 13 MS. MCENROE: Objection to the form. 14 Asked and answered. 15 A. I don't remember. 16 MR. CERYES: Do you want to take a 17 minute? 18 MR. VETTORI: I'm good. 19 MR. CERYES: Okay. I'm sorry, one 20 other question for you. I don't mean to get 21 everybody excited. 22 BY MR. CERYES: 23 Q. If we go to Exhibit 53. 24 A. I have it in front of me. 25 Q. Great. There is in the text box toward</p>
<p>2 8</p> <p>1 Q. Can you estimate on practically -- 2 approximately how many depositions you've given? 3 A. Fewer than ten. Anywhere from five to 4 ten, maybe. 5 Q. In what circumstances have you been asked 6 to give deposition testimony? 7 A. I think they were all ECFMG related when I 8 was employed at ECFMG. 9 Q. And so you were testifying as a 10 representative or employee of ECFMG with regard to 11 certain aspects of their operations? 12 A. Yes. 13 Q. Have you had the -- well, were those 14 generally lawsuits in which ECFMG was a defendant? 15 MS. MCENROE: Objection to form. 16 A. The cases that I recall, the answer is 17 yes. 18 Q. To your knowledge, has ECFMG ever been 19 sued or been a defendant in a case involving 20 negligent credentialing of a physician? 21 MS. MCENROE: Objection to form. 22 A. I have no knowledge. 23 Q. I know ECFMG has been sued by physicians 24 in the past for their -- for being deprived 25 privileging through ECFMG or credentialing through</p>	<p>220</p> <p>1 the bottom of this document a reference from -- it 2 says, "Anna, do not scan any document into applicant 3 file, period. Bring all documents to Anna, 4 parentheses, CREDs, invest, bring to Virginia, end 5 parentheses." 6 Why was it the case that there was 7 some instruction here to not scan documents into an 8 applicant file. 9 MS. MCENROE: Objection to form. 10 Also a reminder the witness testified earlier he 11 didn't know anything about this document when 12 counsel asked him. 13 A. That's correct, I don't know what this 14 document is. 15 Q. Okay. I'll re-ask the question. Are you 16 aware of any reason why documents from -- for an 17 applicant would not be scanned into an applicant 18 file? 19 MS. MCENROE: Objection to form. 20 A. I don't know any reason why. 21 Q. All right. Have you seen any -- is it 22 commonplace for an applicant through the ERAS system 23 to include a personal statement? 24 A. My recollection is that that was one of 25 the expected documents.</p>

Transcript of William C. Kelly
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22	<p>1 Q. And your expectation would be in this case</p> <p>2 that the applicant Akoda would have produced such a</p> <p>3 document?</p> <p>4 A. It was one of the expected documents.</p> <p>5 Q. Have you seen a personal statement from</p> <p>6 Akoda --</p> <p>7 A. I don't recall.</p> <p>8 Q. All right. That's a wrap.</p> <p>9 MS. MCENROE: We'll take a quick</p> <p>10 minute to make sure we don't have anything.</p> <p>11 MR. VETTORI: Sure.</p> <p>12 (Recess taken.)</p> <p>13 MS. MCENROE: Nothing from us today.</p> <p>14 Thank you very much.</p> <p>15 THE COURT REPORTER: Before we go off</p> <p>16 the record, orders?</p> <p>17 MR. VETTORI: I'm ordering one.</p> <p>18 MS. MCENROE: Us as well. Get an</p> <p>19 electronic. We don't need a hard copy --</p> <p>20 MR. VETTORI: Likewise here,</p> <p>21 electronic transcript.</p> <p>22 THE COURT REPORTER: And minuscrypt.</p> <p>23 (Whereupon, the deposition was</p> <p>24 concluded at 4:20 p.m.)</p> <p>25</p>	223
222	<p>1 WITNESS: William Kelly</p> <p>2 DATE: August 20, 2019</p> <p>3 CASE: Monique Russell, et al v. ECFMG</p> <p>4</p> <p>5</p> <p>6 DISTRIBUTION TO COUNSEL: The original signature</p> <p>7 page/errata sheet was sent to Elisa McEnroe, Esq. to</p> <p>8 obtain signature for the deponent. When signed,</p> <p>9 please forward same to Paul Vettori, Esq. for</p> <p>10 inclusion with the original of the deposition</p> <p>11 transcript.</p> <p>12</p> <p>13 WITNESS INSTRUCTIONS: After reading the transcript</p> <p>14 of your deposition, please not any change or</p> <p>15 correction and the reason for it on the errata</p> <p>16 sheet. DO NOT make any notations on the transcript</p> <p>17 itself. Use additional sheets if necessary.</p> <p>18</p> <p>19 SIGN AND DATE THE ERRATA SHEET and return it, along</p> <p>20 with the transcript, to your counsel.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	224
222	<p>1 C E R T I F I C A T E</p> <p>2 COMMONWEALTH OF MASSACHUSETTS</p> <p>3 Worcester, ss</p> <p>4 , Jenni A. Doherty, Certified</p> <p>5 Shorthand Reporter and Notary Public duly</p> <p>6 commissioned and qualified in and of the</p> <p>7 Commonwealth of Massachusetts, do hereby certify</p> <p>8 that there came before me on the 20th day of August,</p> <p>9 2019, the person hereinbefore named, who was by me</p> <p>10 duly sworn to testify to the truth and nothing but</p> <p>11 the truth to their knowledge touching and concerning</p> <p>12 the matters in controversy in this cause that they</p> <p>13 were thereupon examined upon their oath, and their</p> <p>14 examination reduced to typewriting under my</p> <p>15 direction and that the deposition is a true record</p> <p>16 of the testimony given by the deponent</p> <p>17 further certify that I am neither</p> <p>18 attorney nor counsel for, nor related to or employed</p> <p>19 by, any of the parties to the action in which this</p> <p>20 deposition is taken, and further that I am not a</p> <p>21 relative or employee or financially interested in</p> <p>22 this action</p> <p>23</p> <p>24</p> <p>25</p> <p>1 N W T N S S W H R O F, H A V H R U N T O S T M Y</p> <p>2 H A N D A N D S A T H S I S T D A Y O F S P T M B R, 2019</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	224

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